

Closed Caption Log, Council Meeting, 11/01/11

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good morning.

Good morning, I'm austin mayor.

Mayor mayorlee leffingwell.

This meeting Tuesday, November 1, 2011, meeting in the austin city hall.

So, the first item on our agenda is item b-1, which is a discussion on procedures for citizen participation in city council meetings, and I believe this was put on by council member morrison.

That's correct.

So the floor is yours.

Thank you, mayor.

We have had some discussions over the past couple of months about public participation during our, what's known as our consent agenda, posted as our 00 agenda, and I think that the mayor and I had some disagreements about how the code was interpreted wasn't sat down and talked through some things and I think came to some common understanding and some joint ideas.

But in other ways, we didn't come to agreement on, an adeally I hoped we could have come to agreement and proposed something to everybody but since there were some points still open, i thought it would make sense just to throw it out to the rest of our colleagues here around get your thoughts on the matter.

The rest that are hear today anyways, and hopefully we will get them to jump in.

We have several parts of our code that regulates the participation of the public 00 consent agenda, and I think it's useful to go back and look at the beginning of that section because it's the council findings that sort of sets the stage for how we're trying to -- I'm talking about 2521, under council findings, you know that useful public debate is served by the fair and impartialed a be minute of rallies of order -- administration of rules of order, democracy is best served by participation, best served by the timely and substantial participation of its citizens.

I think what we're trying to balance here is making sure that we're able to rel get input from and participation from the public, but to streamline or to have our meetings move along in a reasonable and timely manner.

Some of the challenge, I think, of this discussion is that we have our code as it's written today, although it says specifically each newly elected council may adopt new procedural rules so I think it is foreseen that we would actually have this discussion.

So we have the code as it is today.

We have what we see as the situation today, and then we also have limits on what's feasible in terms of managing who talks and when because we have the sign up system and we want to move our meeting along in a timely manner.

So I think that the mayor and I both sort of agreed in our discussion, correct me if I'm wrong, that it wouldn't, it with a make sense for us to sort of take a snapshot of the sign ups at some time close to the beginning of the meeting, to determine from that snapshot what's going to be pulled from consent.

45, if you're going to participate in pulling something from consent, sign up 45 and the clerk with a work from that.

I think where we ended up really not being able to come to a resolution is a fundamental question and that is once something is pulled off consent, or how many times may a speaker speak on items that are pulled off consent.

And of course, I'm not talking about any of our public hearings where all of that is well defined.

The question is, should a person be limited to three times, speaking on three items on items pulled off consent because that is the way it's being interpreted now.

Once you've signed up for three off consent, any other items you are listed as a speaker, you're not being called, you're just being registered as yes or no.

The question is, I think the fundamental question is, does make sense to limit someone to speaking on only three items pulled off consent.

And my view is that, of course, I think our attorneys have said they interpret the code say that right now, I disagree but we have the opportunity just make the code say exactly what we want.

I also think that -- so that's question number one for me, does it make sense to limit people to speaking on three items pulled off consent the other issue -- off consent.

The other issue that is related, if a council member pulled it off consent or if two or more speakers have signed up to speak on it.

The way we're working it right now, the mayor is pulling things off consent if there is one speaker signed up with the understanding that we want to deal with consent and let staff go off and do their work so we don't want people speaking on items that are still on consent, we want to just deal with as much as we can and have staff go do their work.

Which makes sense to me.

On the other hand, for me, there is an open question whether, when something left on consent, whether it makes sense to and whether it is foreseen to have an individual speaking on individual items or not.

So I was, for instance, I was speaking with somebody that speaks on a lot of items at council meetings,

and her take on it was interesting.

She said, well, that's the problem.

Let's leave items where only one speaker is signed up on consent and you don't get to speak on consent items.

Now, I could see actually doing something a little bit different and saying that, leave an item with only one speaker on the consent agenda and then, if it is feasible, with our system, and then before we pass consent, allow people to speak three minutes on the consent agenda all together.

So those are just a couple things that I throw out to you all, basic questions are, does it make sense, should we be limiting people to speaking only on three items that are pulled off consent, and do we want to consider leaving items with one speaker on consent and having that person speak for three minutes on the consent agenda.

If they signed up for six items, they still only get three minutes to speak before the consent agenda is passed.

Mayor, you do want to add something?

Just one correction.

The limitation of three items to speak on does not apply if it is an item pulled by a council member.

And I think, you know, whatever changes are -- what we're doing right now is we're applying the ordinance as it has been interpreted by our legal department, and you know, if it is a desire to change that along the suggestions you made, I believe it would require an official action by the council to do that.

Correct.

I have a question in a legal manner.

Council member Cole.

You could give us a brief rendition of what your interpretations of what the ordinance says about speakers in the items.

Hi, Debra.

Council member Cole, you want to yield for questions.

Definitely.

Council member Tovo.

A quick one.

If you can point us to the code language as relevant.

Thanks.

Debra tom as with the law department.

Council member, the relevant section that is we've been looking at are 2-5-25, which deals with the consent agenda.

2-5-27, Which deals with citizen participation.

Those two sections.

The first, and you need to look at it all together, basically, so if we look at 2-5-27b, -- no.

Here is the third up with, I'm sorry.

2-5-29C.

Except as provided in section 2-5-25 consent agenda, a person is not limited in the number of items on which the person may register to testify.

So as council member morrison said, there is a clear understanding that the council and the city is interested in having as much participation as is appropriate.

And really, we're just talking about the limit in the consent agenda.

57600

it says, a person other than a council member may not participate in removing more than three items from a consent agenda for a single council meeting.

D.

2-5-25D.

So when you -- so there's some limits, so according to 29, there is a limit in 2-5-25, and that is the limit.

So, if you -- it's a limit on what you can register to speak for, as it says in 2-5-29.

You can pull three items on which you can speak.

And would you read the language again, because I think we've heard it from some citizens.

A person may not remove an item --

may not participate in removing more than three items from the consent agenda.

And that is how you speak, that is how we register to speak.

So that's what's causing -- okay.

Mayor.

Suppose, debra, we've got five people who are already registered to testify on some item, it is going to be pulled from consent, and somebody who has already registered to testify on three other items says that is interesting, i really want to talk about that too, and wants to sign up.

In your definition, they're now participating in pulling that item from consent, but in fact, it would have been pulled from consent whether they had been registered to testify or not.

That's true.

But then, from a practical standpoint, how are we going to, in the time that we have, decide who did what, when.

It just yet's to be very confusing.

We do know the time which people registered to testify.

They're in numerical order as to when they signed up.

If they're the 5th or 7th person ready to testify in order.

By the time you get to 5 or 7, it is already going to be pulled.

It will be pulled, but you've also signed up to pull it off the consent agenda, and that's what you do when you sign up, you sign up to pull it off the consent agenda.

But the first two people already pulled it off the consent agenda.

But when you sign up, that is what you're doing.

You're still participating in the activity, even though you are not personally responsible for it?

Yes.

You're participating by actually -- that is what you are doing.

Just as responsible as anybody else.

That is what you're doing.

That's what the mayor said, you're as responsible as anybody else as getting it pulled off.

Okay, thanks.

So, mayor, debra, so if an item has already been pulled because there has been two speakers, I'm understanding you to say even if there is a person who has already spoke on another item three times, they can still sign up on a fourth item that has already been pulled and actually have more than three times to speak on three different items.

No.

That's what I was trying to figure out.

No.

The issue that the council member spelman and morrison are raising is that when you sign up two people, say third person, you know, or seven people who have already signed up for item a, and another person has signed up for three items already, and they may --

item b.

C, d and e.

Then they come back to item a and there are already seven people signed up, they signed up too, do they get counted in removing more than three items from the consent agenda?

And our answer is yes.

New sign up, you participated in removing the item from the consent agenda.

Is there a simple way to think about it, to me, is the only way you can speak on more than three items is if it is pulled off the agenda.

If an additional item is pulled off the agenda, you could tack on that one.

Are we monitoring that?

Yeah, sure.

Kathie.

Sigh wonder if someone could explain the rationale for allowing somebody to spike more than three times if one of those items happens to be pulled by a council member rather than a citizen.

The rationale is the ordinance.

I'm looking for the philosophical reason why it would be different.

Especially --

I wasn't there.

Becauseally, neither were we, but the council members, because the council member can pull whatever they want, you know, whatever number of items they need to pull, and we just basically didn't want to charge a person because a council member pulled it.

I guess, though, you know, to me if a council member pulled an items it needs discussion and we knead to hear from citizens.

If we've got more than several people signing up for an item, it signifies the psalm thing, there is general

interest in it and the public wants to have a voice in that decision.

So to me, it amounts to about the same thing so I guess I'm inclined, in answer to your first question us that posed, if there are items for which that have already been pulled from the consent agenda, I don't think those should be charged against somebody three times to speak.

Fan that means -- and i, that with a not have been the interpretation I got from the ordinance, but if that is the untermtation that is sounds like -- interpretation that sounds like we're, I'm trying to find a phrase that's not "stuck with" then I think we need to make changes to it.

Mayor.

I have a practical question.

If someone is signed up to speak on five items, and none of them have been pulled by council members, how is it we determine from a practical point of view, which of the there's items that person is going to speak on.

I can answer that.

Of course,s person knows they can sign up on any three but if they choose to sign up on more we simply pick the first three in chronological order.

Do we give them an opportunity say I would rather not speak on item 7, I would rather speak on item 9 instead.

We don't do that, as a formal matter in a meeting, but they are well advised that that's the procedure before they start.

Okay, thanks.

Mayor -- go ahead.

There is a practical consideration here.

All these things happen, all this happens in the matter of a few seconds in the beginning.

And so we can't go back and pull out each person that may have done that and, you know, basically hold a little hearing there in the council and say, okay, you signed up on one, two five, seven, 19 and 20, which you do want to drop?

That would not be workable.

You know, I did want to comment and this is basically all I have to say about the purpose of this is not to limit public testimony, but it is to allow the meetings to proceed and to be fair to other people who have business before the council that day.

If we pulled off every item on the consent agenda, we would be there all day and all nate so there has to be some practical aspect to it.

Not us, not the fact that we have to be there all night, but the fact that other people who have legitimate

business before the council have to also be there all night.

Mayor, I was wanting to respond council member tovo, what is the philosophy going on.

I appreciate your comments and i understand the orderliness and meeting efficiency, I wonder if we should think about some middle ground where people actually get to register their opposition to a particular consent item, and --

they can do that, council member.

They can sign up opposed and not wishing to speak.

No, I mean with an taunt for us to do something about it as opposed to just pass it with their post.

So I guess the first philosophy I'm getting to is that maybe the very fact that none of us has pulled an item and it is on consent and there is one speaker to talk about, maybe that is the one thing we need to hear because we missed something.

And we might not have even, any of us, caught that fact and there may be only one person that has caught it.

And so maybe that's just something we can asked ever ask the city manager to look into because just, maybe those items need to be passed later in the day, if we know that there has been somebody registered opposed to them, instead of going.

I guess I'm wanting your thoughts on that.

That's actually the way its' operating now, even though the codes says we will pull any item off consent that has two or more people registers.

The procedure right now is to pull any ideas that has even one person off the consent agenda, signed up, off the consent agenda, so those items are being kicked to later.

I'm asking how much later and are we given a chance.

Are they kicked to later with only one speaker?

And how much, it's nobody seeming to me in the meetings like we have very much time to look at what the opposition is.

So, if a person sanes signs up opposed, we vote, we see the opposition, everybody speaks and we vote on the consent agenda so we have all these actions that are rate before us at that time.

I think, actually, the sequence says anything with any speaker is taken off consent and we vote on consent and no one speaks on it because we've already pulled everything off consent.

Unless there was somebody that had signed up four times and was the only person.

There is no way to make that more, its guess I would say democratic than with the current process to get at your concern.

That's what I was trying to do.

I was trying to think.

We have complete consent, no speakers that goes.

Then we have items that have been pulled with speakers.

We listen to the speaker and then the council member has an option to keep it on or off.

We've already voted on consent.

That's a problem.

I guess I don't see that as the problem.

You don't see that as a problem?

Right.

Where anybody has any comment on any ice, it is off consent so we only address the eats that nobody has any comment on.

Okay.

So my thought is, in terms of -- I have discomfort limiting people to signing up to three items that have been pulled off consent.

So it's not so much what we're voting on.

Yeah.

I don't have discomfort in going with you may only be, if you're the only one that has saned up on five items, only three of those are going to be pulled off consent.

And we could determine which ones they are or they could be in order, we could certainly look at them, but I also think that, I don't know if it is feasible, and that's the other side of this, what's feasible is we would have to work out with the clerk to leave items on consent if there is only one person signed up.

Our code foresees that.

And ask anybody in that position where they're the only one that signed up, it stayed on consent, invite them to speak for three minutes on the consent agenda.

It seems to me, they could raise flags and at that point if we think it needs more, you know, they would only have three minutes, they would have to focus in and we would, of course, then have an opportunity to pull something off consent.

We haven't voted on the consent agenda yet.

Let me see.

That's fine with me.

To me it is more restrictive.

If that's what the council wants to do, I think we should bring an item forward to change the --

it is a two-way, loosens up on you can speak on more than three items but it limit what is we pull off consent, it tightens up the time line.

That's good as far as I'm concerned.

I just feel I could do that unilaterally and still comply with the city's ordinance.

One other quick comment, besides having respect for a lot of people that have legitimate business before the council and causing them to wait hours and hours, there is also, as you may have noticed when we begin our meetings, that the room is filled.

And most of those folks that are in there are staff people.

So the idea is to get the consent items out of the way quickly so they can go back to work and being productive.

If we have to drag this time out that we consider the consent agenda, then that is very unproductive and inefficient and you've got ask yourself for what purpose.

If I could just reply to your reply.

I totally get that we need to do what we can to make the staff time efficient, and when we're pulling items off consent with only one person signed up now, those staff members have to sometimes weigh into the day so if we did this middle ground, the consent agenda process would take a few more minutes, but it would relieve those people.

And I completely agree you with that we're trying to find a way to enyou courage participation and make sure that -- to encourage participation and get the public input that we need.

I'm happy to do that too but I don't feel I can do it now under the current ordinance.

I agree.

And the reason I put that on here was I wanted to get the seven-day of what our colleagues forward and bring something forward and work with the clerk to see what's feasible.

I would emphasize that last mart, there is a matter of workability, whatever is adopted has to be workable and doable in a very short period of time, or it is self defeating.

Although it sounds more restrictive to allow a person to only speak for three minutes on several items.

From a practical point of view, if they're making good points, what we've seen us do is ask people

economy questions about it.

If you start on eat three, here is what is missing, here is where the back up is falling short.

They say the same thing on eat for and run out of time, I'm going to personally ask me about five and seven, you do have the same concern there so practically speaking, if somebody has more to say, we will ask them.

If they don't, we will cut them off at three minutes.

That is always the case.

Any comment by a citizen, if it illicit as question from a council member that three minutes is out the window that doesn't apply any more.

I agree.

Although it looks more restrictive, it may not be more restrictive.

Chris, and then kathie.

I think we're approaching agreement on one issue, and that just the handling of items that are on the consent agenda which there is only one person signed up to speak, and I think the change we're talking about makes sense and is consistent with the current code language.

I think we still have question where you have multiple people signed up to speak, either two or many more.

So I think we need to talk through that, because does anybody have a proposal on a change to make on that?

I have a proposal, and I'm floating this, I haven't thought hard about this and I could be talked out of it but it seems to me if our interest is clearing the room, letting people get on with their lives you, then interest a practical point of view, once we clear the consent agenda, we work on those items which have the most number of people signed up to speak and work our way down to speak.

If you have 14 people signed up to speak on an item, we take that first.

Then one with certain and one with three.

With all do respect, I don't think so that is practical.

A lot of times, we have five minutes or 10 minutes before we have to do something, whatever it might be, a citizens communications or something else that has to be done by time certain, you have to have the flexibility.

I understand.

With consent of the council to move these items around.

But I personally would not support a rigid rule that says you have to work your way down like that.

I wasn't thinking of a rigid rally, mayor, just a general understanding, when of practical, just to get people on with their lives I think that would be a general good idea.

Well, yeah, and that is definitely an important consideration.

But I want to mention one other practical aspect, you know, that I've seen over the years that I've been on council, not just as a mayor, but a lot of times people will sign up wishing to speak and then not be there.

And sometimes, even, there is no way to control this, names are fictitious can be used to sign up and you could get any number, you get three or five off five or whatever of those for somebody who wants to try work the system.

There's lots of different ways, lots of different loopholes that can be there.

Mayor.

Yes.

I wanted to ask if anyone had ever contemplated lowering the time limit from three minutes to, say, one or two for the consent agenda items.

Can we talk about that?

Yeah.

Certainly.

Anything like that would require a change in the ordinance and that would be the council.

I don't have any particular opposition to that.

I knows in the planning commission, for example, their rules, but this is in public hearings.

When they're having public hearings, they will have, you know, speaker for five minutes and a cup for three and everybody after that for one minute.

But that is their official rules, that's not something somebody decides arbitrarily and I couldn't do that, I couldn't just say, okay, you get one minute.

No, I understand that, I just throw that out as another potential consideration, maybe if it is signed up, people have signed up on a consent agenda item and there is only one person speaking maybe they ought to be limited to two minutes.

If there is a need to hear more from them, we can have a back and forth.

I understand and appreciate the need to get people back to work early on in the consent agenda and that might let the issues that really do need to be discusses and really need significant citizen input to

really be discussed in the consent agenda, but if there is one citizen, allow that issue to proceed.

Let me make one final comment, I don't want this to get lost, and that is the city of austin has always been a city that welcomes participation.

Most cities, items on the consent agendas are a public hearing is not required, it is not required to take any public comment who so ever, and in fact, most cities don't do that.

We have certain things we have to have public hearings on, we have to take public testimony on as required by law and we've never limited that in any way.

But these are items that we, as a matter of tradition and courtesy and community values, take public comment on because that's who we are and we want to extend that courtesy to citizens above and beyond what is actually required of us.

Mayor, I would like to add to that, it's been my observe advance in the past when we ever talked about limiting the time period that people were going to be allowed to speak that we received a sufficient, a lot of public push-back on that regard, but I found your, I remember when we were discussing that or thinking about that.

But the idea that we could get to a certain number of speakerses and then limit the time was intriguing but is shirley here?

I don't really know if any of these sort of time limit changes that you just brought up, if you think that with a result in any real reduction in time.

I think the mayor was accurate in we've seen number of games being played in the stock market so it is hard to say.

We would just have to try some things and see what works better.

One of the practical things that I would like to see is the code changes.

Right now, our rules allow people to sign up until the minute you take vote.

So you know, what we often see people doing is exiting the claim behr -- chambers and rushing out so sign up for items.

It might help us in managing the flow of the meeting if do we what we have to do on appeals and that is stop the sign up when the item is called up for discussion.

You know, discussion can last several hours.

It is very difficult to keep up with the additional people signing up and particularly if you have any rules about how many times and those kinds of things, then how do we apply that if it has gone on for several hours.

So just as a practical solution, it would be helpful to say when we call the item up, we're done with the sign-up portion of.

Which is as council member 45 cut off, which gives us the opportunity to work through, are they on or

off consent.

Is that a sufficient amount of time?

I think so.

We're doing a lot less than that most of the time.

Three minutes.

You know, you guess the elephant in the room here is that we've been operating under these same rules and procedures ever since I've been on council and it has never come up because we've never had someone, as we had in recent months that would sign up on 15 items.

That's just never happened before.

Let me ask shirley another question with that.

It always makes me nervous to be changing the code because of one particular incident on something that's been working for a while.

Is there anything that you could suggest to us now on an interim basis that we could -- do we have the authority to, before we act by resolution to institute this process, just based on robert's rules of extraordinary the managed authority to handle the agenda or anything like that.

There was one other provision that has not been mentioned this morning in the rules that say if one or more people have registered to speak on an item that could otherwise be approved by consent of the council, the presiding officer may ask if reading the rej card in the record and approving the item on consent is an acceptable alternative to a presentation by the registered speaker.

So literally, if you had two people signed up and chose not to pull it off consent, the mayor could ask if that would be acceptable to read into the record, as he often does anyway.

He says so and so has signed up in opposition to or whatever, but this would be sort of asking their permission.

Mayor wynn often unvoked that portion of the code and it's not in use but he would just similar plea says these two people have signed up in favor.

And, you know, we use humor sometimes to diffuses action but do you really want to talk us out of that item and he would proceed onward.

Said that a cup of times.

Mayor wynn did it all the time.

How does that --

that's different.

Right, it is a little bit different.

When I read this, presiding officer may ask if reading the registration card national record, it has to be -- if there are two or more speakers, the code says it will be signed off on consent so under the load code I only see real leeway.

Certainly if two people signed up for it, that with a make sense.

I'm sort of, I guess I could ask our attorney the one idea that I threw out about leave an item on consent if only one person has signed up and then allow any person who is on an item that was left there to speak for three minutes.

Does that fit within our code?

S in the current code?

Currently, no, not really, no.

So if you signed up for an item, you think that the code says that if I signed up for an item, even if you're the own one and it stays on consent, then you have the right to speak?

On each of those items.

I think, honestly, the way to proceed is if you've got another suggestion for a change in the code that you think might work better, just try to work something up and present it.

Chris.

On that point, currently the code says that the council should not adopt by consent an idea which two or more people have registered to testify.

So are you saying that there are limits on our ability to approve on consent an item which only one person has signed up to testify?

No, I was just thinking in the framework that exists, the idea that, because the right now the kid says three minutes on each item.

That's the part that I was more concerned with.

It says speaking time, um, somewhere it generally says that the presiding officer -- what is the section?

2-5-29-2.

Somewhere it says three minutes.

It says the preceding officer should grant person three minutes to address the council, unless the council rules otherwise other the presiding officer exercises at thorty to limit --

I think the general understanding was on an item.

I would say if we're considering the consent agenda, that is one action.

And if someone is not pulling something --

that's flew off that agenda, if we're just considering the agenda, it makes sense that time on the consent agenda would be limited to three minutes.

And you don't see --

the consent agenda as one item.

I don't see anything in the code that is inconsistent with that.

If the consent agenda is one item, we generally haven't thought about the consent agenda as being one item, it is one item which he vote.

Generally we think with the three minutes per item.

If there seems to be some support for that, may maybe we could actually get it explicit in the code so there is no question, and then I would really -- because when I look at -- can I see that?

When I look at the code, the reason I disagree with the interpretation is that I think that the section on citizen participation is, which is 2-5-27, talks about speaking and the word "participation" is used in the other section on participating from, participate in removal from the consent agenda, and so I think those are two different things.

But I think that regardless, we should decide, just among us, do we want people to be able to speak on more than three items pulled off could be sent by other than council or not and get clear one way or the other.

Again, I think that would be a code change.

Exactly.

That could be brought forward.

That's what I wanted to hear from my colleague, dough this support that or not.

I like it.

If I could speak to that.

Chris.

One philosophical justification for the approach we have now, it does allow council to remain control over the orderly proceedings of a meeting, so, for instance, if we were to limit that and, or eliminate that and say that anybody could pull an item was able to speak on however many items you want, you could have two people -- often our agenda has over 100 items, we could be spending all day hearing from the same two people if we don't put some limit on the ability to 6 speakers to speak.

Even picture four or five people, you could really frustrate the council's ability to get through its agenda

in an order leeway so I think there is some value in the council main taking some control.

-- Maintaining some control.

And the question was raised before, does it make sense to allow more input when the council has pulled an item opposed to a citizen and I think the answer is that leaves control in the council hands.

Wear not as vulnerable to a small group of people pulling many, many items off the agenda and essentially hijacking the meeting.

Let me just say that there is, the way I read this, participating in pulling no more than three off the consent agenda, to me that helps maintain some order.

It's a little difficult for the clerk to be able to actually manage all that but -- and no matter what rules we put in place, there is always going to be people that are going to, there may always be people that are going to sort of try and work around them, but I get your point.

Well, I would say to that you, council member, that after blitz of time in trying to figure out how to cope with this new situation, I think the last few meetings it's been working pretty well, we've been able to get through and somehow control our meetings.

And I agree with you, there's always going to be loopholes.

And one final comment, the more I think about this idea, you know, allowing one person three minutes to speak on the entire consent agenda, I don't think that's practical.

You might have two or three items that a person has a legitimate interest in that they want to talk their full three minutes on and all the sudden you're telling them now you've only got three minutes, you're in effect cutting their time in half.

And I just don't know how well received that would be.

And in the case of some people who have pulled 10 or 15 items, that means they've either got to pick among those and just limit themselves to three minutes or spend five seconds on each item.

Although, just?

Response to that, if somebody has serious concerns about 15 items on our agenda, I would sort of hope they might contact us or staff ahead of time to maybe work through some of those and we certainly encourage that if that is a regular process.

I don't know what to say to that.

Kathie.

I didn't hear much support, I didn't think, more that idea of switching the system to allow three minutes on the consent agenda.

I think you were making a different point with that, if I followed your point, which I didn't closely.

I am responsible -- I'm supporting council member Morrison's suggestion that once a person has

signed up, under the current rules that doesn't you a peer to pull it off the consent agenda.

Since vote approval is a matter of one vote for the council, someone has the opportunity speak on three minutes for that one vote.

If multi peel people speak on the items to speak on that we're talking about a different role and that is a different set of issues there.

But yeah, the suggestion is if you're the only person signed up to speak under the current rules, it stays on the consent agenda and I think it is reasonable to place some reasonable limits on the time we take on our consent agenda.

The whole point of a consent agenda is that you approve it on consent without bury rowing into the detail -- burroing into the details.

Under the details, it will only be pulled off with to or more people signing up, then a reasonable extension of that rally is if there is only one person signed up, it stays on the consent agenda, that is one item, I think it is reasonable to allow one person three minutes to speak on that item.

So does that mean they have not participated in pulling sing from the consent agenda and if they are the one and only speaker on that item, it doesn't count because --

that's now the our current interpretation.

And, you know, we would be -- sounds to me like we would be right back to square one.

We would be having a person sign up to speak on 15 different items.

Whether you call it being a part of the consent agenda or not, it would still delay the consent agenda by that amount of time.

Approval of the consent agenda, by that amount of time.

So the whole purpose was to have the consent agendas agenda consist of those ideas about which there is no discussion so that we can efficiently move on to the next ices where there is discussion by council members or citizens and release those staff members that were there for that particular item.

And let other people who have business or the council have an opportunity to address their legitimate concerns in a timely way.

Mayor, if I may, I think, if I'm following council member riley's logic, if they are the only person signed up on 15 items, they would have an opportunity to speak that wouldn't count toward their three because they've not participated in pulling those ideas from the consent agenda they remain on but only receive a cumulative total of three minutes, not 45 minutes.

And council member, I believe that is consistent with the code because if one person is speaking and it hasn't been pulled from consent then it hasn't been pulled off the consent agenda.

How about practical question, what is the -- there seems to be if notuthan anymorety, a good direction for us to go in, what would be the practical means of moving this forward.

Ever?

Would it be permissible for

[09:54:00]

council member moreston work with you, debra in writing up a change and strong come before us in a couple weeks.

Items from council, put the item on, we would work with her --

the item from council would not necessarily have to be a resolution directing the city manager to write up the ordinance, she could just write up the ordinance working with you and that would be the item.

Yes.

Okay, thanks.

If I may, I think I agree, i think, with this, we seem to be in general agreement about going that direction but they still have remaining issue of there is a whole host of issues.

When you have more than one speaker signed up for an ice, i think that is more cop indicated.

It is a different issue when you have more than two, because then you can reasonably ask, did that person really participate if they were the umteenth speaker signing up, did they participate in pulling it and I don't think we have a clear agreement about what to do about those situations.

What would you like to do about those swagses?

Swags -- those situations.

[Laughter]

that is a real concern, that is not a hypothetical.

That happened every week.

We have two or mother people signed up, it gets pulled off consent and there is only one person there.

And the other person really never because there, by all apparent indications, never was there.

Maybe came down and signed up and left.

So that is, I predict, what will happen under this scenario e joe.

Scenario.

But I'm comfortable with leaving things on consent.

You can't participate in pulling off more than three from consent, so that can be challenging for the clerk

to figure out, but thing will be left on consent so if there is a person and a percent that might

[09:56:01]

not and person that duo signed up on 10 on 10 items, three come off.

I'm uncomfortable having stringent type rules, we may have an example or someone work through a loophole and we can work personally with those people if that gets to be an issue.

Let me address this Chris' point directly do we have the option either under Robert's rule to wave the rules under citizen's participation to wave the rules in an extraordinary situation.

We're talking about at a council member allegation and something comes up.

Somebody decided they will sign up on 27 items and has an imaginary friend also doing the same thing, we want to maintain control of the meeting, can we wave the rules?

You can wave the ruleses but the caveat is be careful because we wouldn't want to start treating people differently.

You don't generally follow the rules on a consistent basis, that's the risk you start to come up, but of course on an individual basis, depending on situation happening that day, council could, with a vote of the council, wave those ruleses.

What I am getting at is if an extraordinary situation came up where we're playing a game with somebody trying to find loophole, we would be able to close loophole in real time and not wait a couple weeks to make change in the ordinance to close the loophole.

The council's procedural rules are directory and they don't affect the validity of anything council does so if council was in an extreme situation and needed to act, council could act and not risk the validity of its action.

What would be the instrument for our doing that?

[09:58:00]

What motion would we have to make in order to does pence with furtherers citizen communication on an item.

Council member, since we're in the code and making changes to the code, we could write a provision that would easily allow council to do that.

We wouldn't, there wouldn't be any question.

I think that would be an excellent idea.

It looks like you might be bringing this item forward with me.

Yeah, it does.

Mayor, I would just like to comment that, I think that should be a very general item as opposed to

anything specific that, you know, if council deems or document deems that the meeting is being, you know, delayed or inefficiencies, that type of language, so that if we see -- because we need that anyway, egregious behavior, we sense that, I'm surprised to learn we don't already have this.

Well, in effect, we do.

The chair can simply say here's what we're going to do, if is there no objection from council.

But I think if we attempt to write a detailed ordinance like what has been talked about here, what you're effectively doing is taking away from the chair the ability to run the meeting.

That's what would be the effect of that.

I guess I don't understand that.

If we were to put something in that said that we can wave the procedural rules?

Because you're saying --

all I'm saying is now I think we have the flexibility by actions of the chair with approval of the council to make all of those changes.

But if the objective is to take that away from the chair that flexibility away from the chair and put it in somebody else's hands, of course, that's again, can be the will of the council.

I was thinking of it as strengthening the chair.

I think you've got to get down into the nitty-gritty of this and see how, start writing it down so you have it on paper to see what's going to happen.

If I could, mayor, two things to add to the mix as you proceed is your rules talk about donation of time, how does that impact, you know, if you sign up and in effect are donating your time and then, you know, what are you going to do about that.

And we allow the provision that they can sign up where it says will speak, if they're questioned by council, how you do want to treat that, is that part of the three or not part of the three.

So we can just make sure that when we do this, we incorporate all of those.

Yeah.

I do think that is a complication, electronic complication with the system because if something somebody signs up only if there are questions and there are three categories, yes, no, if questions.

"If questions" turns up as somebody that wants to speak, and we talked about that.

You think this is something that we could do if you could change the software to do it right now, tomorrow, you could sign up and if questions turns up in the count as a no, not wishing to speak.

And I think you will see that tomorrow, mayor.

But I just want to make sure our rules track that.

It gets really complicated sometimes.

We try do the best we can with it and certainly I want to do what's right and I want to do what the council wants to do.

All right.

Anything else?

Any other -- we'll work on some, council member spelman and I will work on something and we'll work it from there.

Thank you, everybody.

I appreciate, it has been good to have this full discussion.

Okay.

So now it's time for open agenda.

I mayor.

Chris.

We ought to start from the top.

Taking item 2.

Item 2 is about selecting a general election run off date for 2012.

And we have three options on that.

I was wondering, do we have any input from right the county clerk or our own clerk with respect to what, which of these options would caught the least trouble -- with a cause the least trouble?

I believe just set the stage, june 23 is six weeks, as i understand it.

And that was the dates specified as the required time limit, is it not?

The time limit is a little bit shorter but you could, under the time limit, do it on the 16th by practically and lodgeition particularly can, the county clerk -- logistically, the county clerk advised she is not ready by the 13 ad.

SHE IS OKAY ON THE 23rd?

I don't want to speak for her but her initial recommendation WAS THE 0th.

We pushed back a little bit, and IT COULD BE READY BY THE 23rd.

Mayor, we're dealing with a situation the county clerk has already cautioned us we may have issues related to 0 this election and I want to make sure we do whatever we can to mitigate the issues that causes the least amount of strife for the clerk.

So I need to know.

I had be okay with any of that's options.

I would want to go with the one that the clerk prefers from the standpoint of running things smoothly.

And we really stress that with her and ask her to be very, you know, make sure she was comfortable.

And I think either of those dates, obviously the more time she can buy, if he she had a preference, probably the 0th would be more comfortable for her but she did indicate they thought they could be ready on THE 23rd.

I think in fairness, the clerk has stated previously she is uncomfortable with the whole thing but if she could work with the 23rd you, you think we also have to consider candidates who are running who would be reluctant to extend that run off time any more than was absolutely necessary.

Any other comments?

Bill.

The 23rd is six weeks after the general election, is that right?

I believe that's correct.

What's been our common practice.

When do we usually set run off elections is this.

We've had to in the last few years back the run-off up because of the overseas ballots.

When I first came it was typically a month.

We've had to back that up.

And I think this is probably the longest that we've had to go, but it is due to the complexity of trying to run two parallel elections.

So we're talking what is on the table is six weeks, seven weeks and eight weeks after the general election and it seems the closer we can get to that month sounds like a reasonable amount of time.

For the voters, it is easier, if we back it up six weeks than any further.

How to big is the difference in difficult from the point of vie twain the 23rd and the 30 ad.

She did not provide any qualitative information but was pretty quick to submit the 23rd as an option.

Okay.

That's what I need to know.

Thanks.

Anything else on that ice?

Item?

Okay.

Next.

Mayor, I would like to ask a couple questions about item 9s.

This relates to the sea home substation wall.

Anybody here for that?

I think you've had questions about that item before.

I have had a question or two and I continue to have some questions about it.

This, of course, relates to the wall, proposed wall around the sea home substation in the say home district between 2nd and 3rd, BETWEEN THE EXTENDED WEST Avenue and shoal creek.

And do we have somebody here who can answer questions about that?

Go ahead.

I'm megan, the acting cultural arts division manager.

What I would like to do is just let you know we have several of my colleagues from other departments who can also, who are also here to answer some of your questions.

Although the scope and the motion or, excuse me, action is about the wall proper, we do understand it is part of a much larger context, and so if there are any questions about the walls or the context we're happy to answer those for you.

I had some questions that are raised by the artist's schematic design, the schematic design we're being asked to aare prove.

There are a number of images entitled west street, which i know, I assume refers, is meant to refer to west avenue.

Sorry, we didn't have anybody involved in this project familiar with west avenue.

But west avenue, the images that show west avenue, they all show pedestrians walking right alongside

the wall, what seems to be a very, very narrow strip of gray.

And I just wanted to get some information about that is that a sidewalk along west avenue?

If I could invite -- excuse me, kerry from public works, can step up and speak to that.

Kerry wise with public works.

That will not be a pedestrian area.

We're going to direct pedestrians to the south side of 2nd street where we will have an accessible pedestrian area.

So images we're showing all show pedestrians walking along the area, but you're saying that the images are all incorrect?

That the image is representing to the public are just false?

We are not going to actually allow pedestrians to walk you a long there?

That was the artist schematic drawing.

We haven't gotten into detail december sign on 2nd street yet.

We are about to get into that process.

There are topography issues so we may not be able to --

along west avenue.

Maybe we need clarify here.

I'm sorry, council member.

Kerry is referring more specifically to 2nd straight along west avenue.

The artists interpreted to that you are best understanding what would be the context around.

We do have a hold -- we do have a traffic lane against the wall.

We will be holding the traffic away from the wall through the use of ballards that does provide an area of refuge for anybody who happens to be in the street but it is not untended to be a sidewalk or ada-accessible route.

People will be encourages to go tote west side where we will have more streets and amenity has to how far away will it be?

Three or four feet.

There will be three or four feets along west avenue in a space that will not actually and sidewalk but it

will be just be a space pedestrians can seek refuge from traffic.

If they happen to be on that side.

That substation fence along west avenue has four different openings into it, so there's, answer if we had a more traditional curve, it would be driving through there so we chose to make the pedestrian way more gracious on the west side it varies but it is as close to gray street as we could accommodation.

Meaning?

Gray streets is typically 18 feet, I believe we're able to exceed that in some areas and narrowed in others because of the yeah om tree of the exist -- the geometry of existing facilities and ability to wind through people.

Along 2nd street, how much space is there?

Minimum of 18 feet.

Along -- there will be an 1-foot sidewalk along 2nd streets?

Yes.

But then when someone gets up to west safe?

They will be encouraged to cross west avenue to the west said of west avenue.

Why is it that we couldn't provide enough space, provide more than three feet for pedestrians.

We have existing structures that create a pinch point be.

The historic generator building and a control building with them.

Also energy substation.

But we -- but you said we have 18 feet, we have room for an 1-foot swab on the west on the west side.

We have diagrams to help communicate.

Why would we sprint images to the public showing pedestrians to caulk alone there if we are not expecting pedestrians to walk you a long there.

Clearly that was an error and shouldn't have been done.

That's been known for weeks.

Must not feel very bad about that error.

Why wouldn't we have corrected that.

I didn't ask the artist to redo the renderingses.

I don't know what the cost would have been to do that.

Megan, do you know whether the artist could do,ry do the renderings or what the cost would be.

Certainly, they could.

I think because the team is focused on the wall and understanding that the street have not been designed yet, they did take sop liberties with the understand that design would eventually happen for those streets and so the focus has been on the design of the wall.

But the councilman, correctly points out something that is not there.

A very important part, especially an area we expect there to be pedestrians and i would hope we will welcome i hads in our new sea home district, we're not completely hostile to pedestrians and an important part of urban design, the way any new structures relate to the pedestrian, the whole whole point of the form-based codes, shift to the pedestrian.

That is how we expect some people to experience the urban environment on fat, foot, ideally, so it is a critical part of design so the most critical aspect of this we have a complete, we're completely misleading anybody who with a look at these images.

We're showing one vision of how this structure with a relate to the pedestrian that is completely false.

If I could also add that it is my understanding the pedestrians were placed there as, to give it a sense of scale.

And did we look at the cost of moving the structures, up against the wall, that would allow for more space to allow for more space, to allow for an actual sidewalk?

Yes, we did.

Back in 2010 we actual completed a student look at what the cost of relocating the control house would be and that was 6 million all of the equipment this there transformers, everything is controlled from the control house so not only was it a fairly costly exercise but it was a very complex effort that we would have had to taken should we have tried to move that.

Even if just to move it over a few feet.

Yes, all terminations would have had to beery done, we would have taken components of the substation in and out of service so it would have been very complex and difficult to time in terms of getting those resources out of service without impacting reliability.

Given we have enough room of 1 feet of sidewalk on the west side, did we look at the cost of shifting, dividing up the right of way in such a way to allow a sidewalk or even anything more than three feet on the east side of west avenue opposed to just allowing 18 feet on one side and no room for pedestrians on the other?

Yes, council member.

We spent the last two or three years going through design studies and a balancing act trying to

determine the best apportionment of the right of way within this area.

On the drawing that I passed out, you will see the control house that we've been speaking of and the historic generator building, those create a pinch point at that intersection where 2nd street would be extended through and hit the extension of west avenue.

We share your vision of a very pedestrian dominant district, and when 2nd street, which is our pedestrian dominant street downtown crosses Shoal Creek it will be landing in the very gracious environment that we are looking at handling a little different than the traditional street in that it will not have raised curbs, we're looking at what some call the festival street, and the pictures behind this show some examples of what we are aspiring to visually, from other locations around the country.

So that area between the library and the substation would be a very public gathering space when 2nd street is closed, very pedestrian oriented.

Then it flows into the plaza that is within the sea home substation and with that festival street, lack of curbs as they move one end to the other.

So there is a very strong pedestrian connection from the sea home plaza area through west avenue to 2nd street, but we do have those fixed pinch points that constrained the width of the right of way along west avenue along between the substation and sea home redevelopment and we did, from meeting with all the departments, we recommended making it as gracious as possible on the sea home side and since it is a very utilitarian phase with a number 6 side cuts along the substation side with not making that a pedestrian dominant location.

Well, apart from beyond not making it pedestrian dominant, we're not actually allowing pedestrians at all.

I mean, you know you provided a three-foot refuge.

That's not a sidewalk.

It is not designed as sidewalk.

You can't really comfortably even have two people passing each other in the opposite directions, with certainly enough room to pass cars in the street but don't have enough room for pedestrians to cross each other on the sidewalk and yesterday this is supposed to be a pedestrian-dominant district.

I understand the pedestrian dominant street, which I think is a shame, given this is a street we're creating in the heart of this new urban district right across from the library, between -- so if anybody walks from the library to the plaza that will be on 3rd street, maybe one of them will take the most direct route which will be along the east side of west avenue.

Just as people walk along the hobby building here out in the street with no sidewalks, I see them all the time, they're out there with traffic whizzing right by and they're wondering why the city of Austin can't make room for a sidewalk in the heart of our urban core -- our urban car.

I understand that because that was the state of, that did that office building and didn't do a very good job doing that but hereby we are putting pedestrians in a three foot wide zone.

Even though we have room for an 11-foot sidewalk on the west side we're not allowing any more than

three feet on the east side.

I'm having a hard time understanding that.

We wanted to get on at least one side.

We looked at how that narrow rate of way could be apportioned and this is the recommendation based on all things considered.

Okay.

Laura.

Thank you.

I want to second your concern and you think that it would really behoove us to see if there isn't some way to slice the pie differently so it is more accommodating.

You think that even more to your point, if you look at the pictures of what those walls look like, it is going to be not only very narrow but you're going to feel completely conflicted because you're right up against a tall 25-foot metal wall.

So I don't know what kind of leeway we have or how we might be able to ask for that relook at this point to see about finding a way to make it more pedestrian accommodating and it's not necessarily that we're talking about being pedestrian friendly here, we're talking about being pedestrian, like, feasible.

So I think -- right.

Mayor, I have a question.

At the very end you mentioned one problem being 12-inch trees.

Can you explain that more.

There is a minimum sidewalk width to get in street trees between the sidewalk and curb line.

To shift more to the sidewalk to the east side would make it too narrow for street trees and we thought it would be better served up against the redevelopment itself where we have the pedestrian dominant uses at the ground level.

I guess I support the relook but I just was, it sounded like you were giving us a choice between space and trees and I wanted us to perfect that if that was really true.

If we split the baby between two sides of the street, we would not have room for street trees on either side.

Because of the narrowness of the right of way.

So we recommended having street trees on at least one side and that being the pedestrian dominant side with the ground level activities within the redevelopment of sea home power plant.

Mayor.

Let me try and frame this slightly differently.

We've got 21 feet of sidewalk space to work with and you chose to die the baby with 18 feet, great streets on one side and three feet on the other.

Great streets on one side, basically nonstreets on the other side.

You knead feet to plant trees.

Trees is a good idea so you could narrow that from 18 to 12 everyone that would leave nine feet on one side which is large enough for for a standard site.

Why in your view is it better to have great straights 0 up with side and none on the other.

Very good point.

As you can tell from the drawing which don't have two parallel lines of right of way.

We're snaking through a series of existing infrastructure and new development, and so when i said it had 1 feat on the west side -- 18 feet on the west side, that was probably average.

There are pinch points that go below the 18 feet where we can bare beget a tree in.

You can see on the west side of the sea home development and the substation, there is two boxes out in the street.

That's a pinch point right there between the new development and the power plan it as it as, or excuse me, the substation infrastructure.

We have a similar situation as you get closer to the INTERSECTION OF WEST AND 2nd,S Pinch points twain the historic generator building and the fence with the appropriate stand offs from the the control building.

Again, reduces lower than even the 18 fat 18-foot on one side.

We're trying to sat fate minimums at that point to get ada accessibility around the generator building and maintain some street treeses.

How much of a sidewalk would we need to maintain ada accessibility, engine rally.

Five feet is typically the minimum.

For those two places you were talking about, we don't have 21 feet at all, we've got 1 18 or 19 feet.

We have a couple of pinch points geometrically we've trays to accommodate the best we could.

So there is a couple of pinch points but we've still got a little bit of room to work with to really maintain some pedestrian access on the east side of the street is effectively only a couple of feet.

Could we back off on the 18 and say 16 or 15, plenty of room for street trees,, and still give it a couple of extra feet on the east side of the streets.

It is not a great street but it is a pretty good street.

We can lean look at that.

I remember when we were looking at those specific pinch points we were down inches than we were having to ask the artist team not design a wall that was over eight inches thick because we were down to the minimum clearance to the control building, thickness of the wall, minimum clearance to the ballards, minimum width for traffic and the west side.

So we're down 15 feet of total space east and west at some pinch points.

Right.

So the side to get to your minimum for street trees that leaves only three feet and makes more trees have a three-foot uniform on the east side.

Correct, we did not see that as a pedestrian away, it was merely to hold traffic off the wall and access the substation.

I didn't realize the pinch points were that pinching.

Thanks.

I have a follow-up question to that.

On the west side there on west avenue, we have right of way and then we move directly into property that is sea home that is going to be developed.

You guess my question is, does our right of way merge into a planned plaid in many cases?

Yes.

And if it does, would it be reasonable to see if we couldn't get some street trees on the edge of the plaza, allowing us to, you know, increase some of our moveability.

The plaza design still being developed but it is being developed as a green roof over the parking structure, very within vegetated with rain garden, as well.

There will be landscaping within the plaza so the street trees, we're not relying on street trees completely to provide landscaping for the area.

I'm wondering if we make sense, to skip the street tree.

Not all you a long here by any means but where we get into then see about trying to integrate and coordinate the design for the west of it, the plaza.

That may be a way to mitigate and make it a little more enticing and enjoyable.

City manager, I think, has a comment.

Thank you, mayor.

I think the comments and the concerns expressed are well taken.

Council member riley, i appreciate your perspective on this.

I think we heard this before in a previous conversation so no excuse relative to the current set of circumstances.

Wanting to be mindful of what's been expressed this morning you, I am going to pull this item and ask staff to be mindful of the comments and concerns that were expressed today and let's work hard to see if there are some other options that would be closer in alignment with the things that we've heard this morning.

I mean, frankly, that's the purpose of these workshops anyway.

We've heard a lot this morning and the rate thing do do is go back and be mindful of the things that all of the members have said this morning that's what we intend to do is pull this item and go back and take a look at it.

Just withdraw the item.

Withdraw the item.

Yeah.

Mayor.

Laura.

Before it gets withdrawn, i want to mention a couple of other things that I know --

it won't be withdrawn until thursday.

Okay.

Good.

I want to mention a couple of other things.

I know the design commission had an opportunity to talk about it, while I believe they passed a resolution approving it, they did raise a couple of concerns tongue would pay to have staff look at.

There was a concern, I believe it was the north wall, especially toward the east side, carrierringconnect 57600 and I wonder if anybody might have a comment on that.

I would be happy to address that.

Freddy griffeth with economic development.

Our office is to provide the oversight of the multitude of projects in the sea home district.

We have a significant challenge in that we have many individual product teams with many individual design consultants.

We have registered professionals within our staff and working with the product managers and their design teams through design mechanisms, we have tried to ensure that each one is not proceeding on its own without reflecting our understanding of what the context is of the adjoining projects and how they relate to one another.

So that is part of our charge in our office.

Providing that overview and that consistency and that integration.

And I guess my question as a nonprofessional in the design world would be what would it look like if the issues that the design commission raised -- what would it look like to really have what they would consider maybe a really high-level overview guideline, design?

I'm not sure if that's different than actually just making sure that each project fits into the context.

Like maybe, for instance, the concern is that the overall goal for the context may or may not have been well designed are or something like that.

Have you had this conversation with your commission?

I did discuss it with him beforehand, but not since the meeting.

And I didn't see the discussion at the meeting.

I think there is a -- it certainly went in the discussions about this district and we talked a lot about the importance of respecting pedestrians.

A little troubling to be designing a space along an open street on city-owned property that we're not making room for pedestrians.

Well, I'll just follow up with my design commissioner to understand the concerns more what it would look like in terms of being filled out.

Councilmember kevin johns.

We have all, of course, read the sea home master plan start to finish and have tried to incorporate a pedestrian strategy throughout this.

However, the councilman identified the misleading element of the concept, i think which led to a pretty interesting discussion.

And we'll go back as the city manager has asked and revisit both the commission's feedback and your feedback and see if we can come up with something that is more representative of the original concept

of the sea home master plan.

Mayor, if I could mention just one more thing.

Since it is now an expressed value of the city and expressed part of the city's vision to be the most family friendly city in the nation, part of that, part of the recommendations that have come from the families and children's task force as well as our parks work group is to make sure that our public spaces also reflect that commitment.

And so, you know, I would put that forward as another value that I hope is reflected in the redesign of this area.

That it does appeal to families with children.

That's a very good point.

We have a lot of pride in the development we're doing and certainly want to make it family oriented.

Thank you.

Which I'll just say doesn't mean we need a playscape there.

But I hope we are evolving in our discussion about what is family friendly design.

One of those plastic ones.

With the swings.

Okay.

Any other comments on number 9?

Next, council member morrison.

I wanted to ask staff some questions about number 5, which is an amendment to the shoal creek allendale improvement contract.

And it looks like we have howard lazarus, our director of public works.

We have heard, I don't know if my colleagues have but i have heard from folks who live along this area and it's been going on quite a while and apparently been rather disruptive.

And so I know, as i understand it, this contract amendment will be to bring it to completion, is that right?

Yes, council member.

It's a change order to an existing contract that will incorporate curbs, gutters and driveway improvements, which were not part of the original scope of work.

It's actually a benefit enhancement to the neighborhood.

Right.

And did we -- I guess my question is, did we think we were going to do this without fixing the curbs?

Why was a change order -- what was our original intent?

Did we not think that curbs were going to be affected?

The original intent was just to do one solid -- the subsurface work was done to overlay the street and leave it as it was when we got there.

But our intent is always to leave the neighborhood better than we found it.

And it just has been a very disruptive project to the harmony of the neighborhood.

I think as we finish and leave, it's always better to leave it better than you found it.

I think the neighbors that live on that street will probably be supportive of that.

What can you tell me about the schedule for completion?

Kerry wars, public works.

I think we expect three to four additional months of work at this point that will include the final paving and curb and gutter and driveway repairs.

Three to four additional months beyond what?

From today.

From today.

Because I guess we had been trying to get some information.

I heard it was in april completion date.

But you're saying actually it will be more like february?

Perhaps I should confirm that and get back to you.

Morrison: Okay because i guess one of my questions would be if there's any way to take a look at the schedule to see if there's any way to speed it up at all because it has -- i guess when did this project start?

It has been for quite a while.

Do you remember?

It began I think january of this year.

I think that's correct.

As I understand it, access -- folks have had because of the major work that you are doing along the street, people have not been able to access their driveways or streets and had to traipse across lawns.

And for the benefit of people who are jumping into the conversation without understanding the scope of work, this is primarily a flex control project that involves an eight-foot box culvert, 18 feet below the surface of the roadway.

So I think as much as you can prepare a neighborhood for the fact that life is going to be disrupted, you never really get it until you get it, so to speak.

In addition to then the stormtracker work, this new water main that was put in as well as additional wastewater connections and wastewater line, so the utility service to the neighborhood.

It's out of sight out of mind.

And those along the road get relief from the flooding, but the stormwater floppies down -- flows down and you have to provide the facility for it.

We have had extensive outreach on it.

Again, there's no way to fully anticipate as a resident how disruptive something like this is going to be.

I think we have done as good a job as possible in working with the neighborhood, keeping them informed and be --ible to them.

It's hard work to do working a narrow right-of-way with such a big drainage structure.

We are trying to do this as quickly and efficiently as we can so harmony can get back to people's lives and they will forget that we were there.

Okay.

So I guess my request to you is, would you be able to go back and look at the schedule?

Yes, absolutely.

And see if there's any way possible, even if it costs, you know, some minimal additional funds to shave a month or two off the schedule to get this over with.

We will absolutely look at it.

All right.

Great.

And then one of the other concerns that I have heard raised is is that due to the drilling and the vibrations, people are seeing some damage to their property, like cracks in their porches.

Have you heard anything about that?

Do you know anything about it?

I haven't heard directly about any structural damage.

I have heard about some concerns about the driveways, noise, vibration concerns.

But I don't know that I have heard anything specific a resident about structural damage to their home.

If they have those concerns, what we typically do is refer them back to the law department to make whatever appropriate claim that they think they need to make.

And are intent always is to be helpful to the residents to get that process accomplished.

Okay.

So if I have folks talking to me about that, should i direct them to you?

Who should they go to?

They can always call and we will help them.

If all else fails, I would prefer they talk to the krause first.

If they feel they need to, they can always call me and I'll help them.

You feel like the project manager, if he or she is contacted, will know precisely who to direct them to to make a claim for structural damage?

Absolutely.

Kathie and then chris.

lazarus, I appreciate you being here today.

I am another office that has heard a lot about this particular project and the disharmony it's causing the community to use your words.

And I appreciate your looking at the schedule to see if there is a way to abbreviate it.

Beyond that, one of the concerns that was raised by one of the meetings is that the contractor has consistently not met the goals of the schedule.

And I wanted you to just speak to whether or not that's accurate, in your opinion and whether any of those slippages of schedule were foreseeable or if they all hit a line and it weren't there or any of those things.

That is a concern.

And I guess the other piece of that, I was told that the residents were promised that they would not have

-- they would not be blocked from accessing their residence for more than a couple of days at a time.

And that also hasn't been the case in some instances.

That they have been limited in their access to their houses.

If I could address those concerns one at a time.

There have been some extensions to the schedule because there has been some additional water utility work that wasn't in the initial contract.

And you can see this is the 8th amendment to the contract.

So there have been some significant changes.

There have been times where the street, long stretches of the street have been open, probably longer than we would have wanted to.

Unfortunately, working in an older neighborhood is kind of the Forrest Gump school of construction.

You kind of never know what you're going to get until you open the box.

So with doing all the utilities, sometimes it's taking a little bit longer.

I think we have tried to be communicative and transparent to the neighborhood.

If you can't get into your driveway a couple of weeks at the time, it's annoying.

We talked to the project manager this morning.

I think there may have been a miscommunication where some people may have thought that the disruption was going to be two to three days, where it was probably more like two to three weeks.

And they have had to, because of the amount of roadway that is open, they may have had to walk a little further than they had planned to go from where they parked the car to their home.

We have tried I think in all cases to mitigate those impacts and tried to make sure that we're very clear about managing expectations.

And we'll continue to always try and do a better job in that regard.

But the truth is that there have been cases where people have not been able to access their driveways for a two to three-week period because of the duration of construction.

Well, and I believe I was told and may have even seen a powerpoint that said two to three days.

That might be something that needs to be examined in the future, the individual in the staff that did the powerpoint.

And if I did verify that, I had forgotten.

So I can't tell it you I saw it with my own eyes.

The other thing I was hearing, the contractor ordered wrong parts.

There were a series of really errors that go beyond just hitting a main or getting into work you didn't contemplate that has to be done, but a series of other kinds of errors for which perhaps we could hold the contractor's feet to the fire.

The work that's been installed has been to the specifications required.

The contractor orders wrong, materials it is his cost to adjust.

But what went into the project was what was supposed to be there.

To the best of my knowledge, the project is still within the contract completion, required contract completion time.

Again, we need to make sure that we are open and manage the expectations properly in terms of what the disruption is going to be, when there are changes, we need to communicate that as effectively as we can.

It's good to have people who are interested and concerned in what's going on in their neighborhood and be observant what happens on a day-to-day basis.

And we always take that and respond to it in the best possible way that we can.

But construction isn't an exact science sometimes.

And sometimes, as the previous conversation indicated, sometimes you've got to do your best to make it fit.

I think some of that may have happened as well.

I appreciate that.

In addition to looking at the schedule, I appreciate the staff work in keeping the contractor on schedule and on target, minimizing the disruption to the neighbors.

You're welcome.

Thank you.

Thanks.

Chris.

I actually don't have any questions on this item.

Or actually I did, but they have been addressed.

But the item right before this, item 4, I would like to shift to that if nobody has any other questions about

item 5.

All done?

Can I move that item 4 is another drainage improvement project?

Howard, are you involved in this one as well?

This is one that we are the project manager for.

I will tell you that I don't have the details in front of me, though.

So whatever questions you have if I can't respond, we will certainly get back to you.

This is a pretty general question.

This is about the east bolden euclid wilson storm drain improvement which is an area of austin with neighborhoods built in the 1950s.

And the point made was that was before we had our first drainage criteria in the 1970s.

So some of the drainage work there doesn't fit modern standards.

So we're basically updating it.

What I didn't see in the backup was reference to the more recent approaches that we have had in dealing with stormwater, which your department has been great on saying things like rain gardens and bio swales at green streets.

And basically we make use of rain water by shaping the earth in such a way to enable the earth to naturally filter the rainfall as it falls.

That's an approach that really has gained traction within the last few years.

And I just wanted to see, was that sort of approach considered in the course of this contract?

Can we expect those sorts of improvements along with all the many types of work that are included in this contract?

I think we would probably need to go back and kind of look through the way the pro scoped to see if those things were considered.

My assumption would be that they would have been considered, but I can't speak to that because i wasn't involved.

So it might be best for the watershed staff who was involved in originally scoping the project to answer that.

Council member, we'll certainly respond and take care of the staff coordination and respond to the question.

I will tell you, though, i think we have done some really great things interdepartmentally to do coordination to take advantage of the opportunities beforehand, to make sure we address them in the design phase early on.

A lot of the work that's in progress now I think is reflective of work that was designed before we started to consider the alternatives.

But as we go forward, certainly everything from different means of road design through drainage improvements are going to be reflective of the type of things that we start.

And I think you're absolutely right.

Your department has been doing great work on that and I wanted to make sure that was reflected on this contract.

And I'll get you a response.

Thank you.

Mayor Leffingwell: So, council, once again, we talked about this at our last work session.

But we have had now three items with extensive staff involvement and it would really be helpful to not only them, but to us if they had prenotice.

If you would post these under category "a"

preselected items so that they can be prepared to talk and have all the people here that they need mite need -- might need to discuss the particular item that you are interested in.

Just a friendly reminder.

Mayor.

Council member morrison.

Morrison: The challenge i have in being able to do that, that means I have to have selected those by friday I guess at noon.

Is that correct?

Because that's when we set the last time for getting something on the preselected item list.

Mayor Leffingwell: I believe so, yeah.

I don't see myrna here, but she would know that.

The agenda office person.

Mayor Leffingwell: Friday.

Do you know, debra?

Mayor Leffingwell: Friday afternoon, I think.

But, you know, they have been on the agenda for a week by that time.

Morrison: Some of them have, yes.

Normal normal ly, they would be.

All these items from staff.

Yes, council member.

The work session agenda is posted on friday with the regular agenda and somewhere 00 on friday is where we would look to get that all tidied up.

Morrison: I guess if something comes up and i know, say, on monday or over the weekend, I guess there could be some reasonable approach to just personally letting the city manager's office know.

Mayor Leffingwell: Yeah.

I think that would be also helpful if something came up too late for posting, just to advise them personally that you plan to do this.

I was just looking at your work session rules here.

So it says that the agenda will include items from the council that have been preselected and those items will be submitted to the agenda office by noon on thursday the week before the work session.

So it's the thursday before.

So that agenda has generally gone out the week before.

Mayor Leffingwell: Yeah.

But I know a lot of times, speaking for me personally, I haven't had time to look at it in-depth by then.

And I know a lot of people are in the same boat.

It's just if you can give a verbal head's up on monday, that would be helpful, too.

Kathie.

Tovo: Well, with that in mine, I'm going to ask some questions for things about which I didn't give a head's up so we may not have the staff here who need to provide information.

But number 31, the downtown austin transportation management association, ah.

I am somewhat familiar with this organization.

I know it's new, it has newly been formed.

But I wonder if you could tell us about the rationale for investing in a new association and also whether this was something that we have already approved an expenditure for in our budget.

Yes.

Hi, robert stiller.

Hi.

Sorry.

Robert spiller, director of transportation.

Yes.

Contemplated as part of the budget process we just completed.

That's the first item.

So this is just the authorization for us to negotiate and actually do the contract.

For sometime as part of our transportation program, we had been needing to start a transportation demand management side of our portfolio.

When I say transportation demand management, there is certainly lots of examples from around the country where work with specific employers to help their employees, number one, understand a variety of their commuting opportunities, but then to actively work to help employees make different decisions, has proved to reduce the single occupancy demand for vehicles downtown.

This became an item about a year and a half ago.

I believe council member riley started it as our representative to this organization.

City council passed an item that allowed a staff member to be the city's representative on the board and that's when I was put on the board or appointed to the board.

The strength of a transportation management association, the tma part of the datma acronym is designed to create a private public partnership so that the companies joining the transportation management association in a sense have an incentive to participate in the program because they are actively self-identifying they want to participate in the program.

So you are working with the companies that are then turning to their own employees and trying to get their employees to change their commute patterns.

And so this was contemplated in the budget.

It's been talked about for sometime in terms of a program.

And this seemed the most logical vehicle to move forward with in terms of facilitating this.

The reason that the city as well as the county and -- the city and the county as well as cap metro are participating as founding members is to really seed fund this program.

And the program will convert to a membership funded type program.

The city of austin not only being a jurisdiction but a large employer in the downtown area seems like an appropriate leadership role for us to play.

So we are voting on a contract for the next three years.

And then you're saying at that point, it become a membership that would give the organization enough time to become a member-funded organization in which our contribution or our financial investment would decrease potentially.

It would certainly change, council member.

And that is to be defined over the next through years and certainly every year our participation is subject to funding and, of course, after this first three years process council would have the option to come back and identify how we choose to participate.

Currently, that is what the board is working on -- ways to participate.

Not only is it a membership, but there's also a fee for service.

And so that the contemplation is this non-profit organization would contract with individual companies to help advertise different commuting patterns, do surveys, assist individual companies in getting their employees to use other methods of commuting to work.

And so the city could also in the future contract for service for benefits that they would receive.

I'll just point out I was a little surprised when i looked at their website to see the line datma funded three years by an annual \$150,000 investment, \$37,500 \$37,500 since we hadn't voted on it.

That website is probably days or weeks old.

There's some maturing in the organization.

There's been no commitment made until the council makes the commitment.

Right.

Right.

But I guess the sort of broader question is the work this organization will be doing is beyond what the transportation -- what our existing transportation department can provide in terms of this service.

Well, council member, what we have found from examples of other cities, , san francisco is that when

you partner with the private sector, it's the private sector as well as government entities working together to generate a change in behavior.

And the results have been more positive as opposed to simply government jurisdiction doing the program.

And so there's an ownership mechanism in this approach.

So that's what we have had from other places.

City of austin staff will continue to work on a variety of programs being in support of our clean air initiatives, our alternative commuting programs.

The things we do with improving the sidewalk pedestrian bicycle facilities, help this program do a better job.

But what things, similar programs in portland have done, they actually, once they have surveyed the employees and find an employee that says I really would like to bicycle, but i don't know how to do it, they will actually send a concierge in a sense to help the person bike the first time.

Once they have done it, they find that person keeps biking off and on.

And so one of the things that again this very granular type organization can do is go to you as a commuter and find out what your impediments to changing your travel characteristics are and help you change your characteristics.

It's pretty effective.

It will be a lot of work to do that.

Yeah, I know.

I wonder if maybe between now and thursday you could provide me with some information about how that \$150,000 investment breaks down since we are 1/4 partner or if we vote to authorize this.

Yes.

We would be a quarter partner in that organization.

I'd like to know how they are going to spend the \$150,000 out of the budget, and how much is salaries, etc.

Correct, correct.

And that work plan is very actively being developed right now.

This organization, the first items we had to deal with was getting a checkbook the item before you allowed them to negotiate and efficiently authorize that for \$37,500 a year.

I will provide whatever information and as council's rep to the board, we'll be providing you updates

regularly as they are developed.

Thank you.

Mayor Leffingwell: Okay.

Go ahead, chris.

Riley: Yeah, I'm very excited about this item, as y'all might imagine.

This is the idea of a transportation management association for downtown has been under discussion for sometime.

A lot of us will see models working effectively in other cities.

Specifically we had someone from portland discussing their experience.

What happened was as we heard, was that there was a recognition within the business community, in the lloyd district, that they simply were not going to be able to meet their economic development goals under current prevailing transportation patterns.

That if everybody at the rates of single occupant vehicle travel that they had there, they just were not going to be able to get 20,000 new jobs within their business district.

The only way they were going to be able to meet those goals is if there were a shift in travel patterns.

And so they chose to form this tma to work on the demand side of the transportation.

And they were very effective in shifting those patterns of travel to the point where they were able to achieve their economic goals.

So that kind of model has worked else where as well.

It really is a very exciting opportunity for us to meet our goals here.

Thank you.

Some of the interesting tools they were able to do in the lloyd district were collective purchase of discounted transit fares for their members so that, again, a larger number of people could just like insurance glob together to buy or negotiate better travel rates.

They found people didn't have bicycles, they went out and bought a suite of bicycles very cheap and distributed them out amongst individuals for commuting purposes.

That's just an example.

I do have one question that kind of straddles this one and item 77 which is on the downtown plan.

There have been times in the past where we have sought to address travel patterns through design provisions.

For instance, with when we did the university district overlay, if somebody wants to take advantage of that overlay, they would need to lease the parking spaces separately from the residential units.

Similarly, we also gave credit if a project was willing to provide space for a car sharing vehicle, then we reduced their parking requirements.

And that still continues in the commercial design centers generally.

And so that leads me to wonder as we look at the downtown plan and we think about the prospect of seeking to work cooperatively with employers downtown, have we considered similar design provisions?

For instance, providing some sort of incentive under the density bonus program for employers who commit to working with the tma or possibly providing some additional points for those who are willing to lease the parking spaces separately from the square footage?

Have we considered design provisions in the downtown plan that would serve the interests of the tma?

Council member, I can't speak directly to if they are involved.

I am certain through the downtown plan, certainly we're talking about wider sidewalks, more pedestrian focused.

Certainly using up as many surface parking lots today with new buildings, reducing the need for continued subsidy of the private vehicle.

I would tell you that I know that's built into the plan and certainly part of our evolving policy.

I can report from my participation in the board thus far of the datma board, that some of the employers are very interested in separating their car lease from their offices.

In fact, one of the early ideas is we would love to turn that decision, whether to drive and park over to our employee.

They don't find -- like i give you whatever it is a month I am paying right now.

Employee, you figure out how you get to work.

And just by simply shifting that decision model to the employee, we know from other cities there's evidence of changed behavior.

And we also know because through discussion at that board, there is a very good awareness by the developers that are part of that as employers or as site managers that parking spaces cost money in downtown.

And so I think there's that added incentive that they would like to build fewer parking spaces, too.

And then on top of that, council member, there's the added incentive that downtown is growing rapidly right now.

We know from the permitting characteristics in my department alone that there's a number of large buildings, whether then they be hotels, residences, offices downtown, there is general recognition amongst the downtown crowd, if you will, that we just can't get everybody to the center of town with cars

because we have run out of room.

And again, that's the entire strategic mobility plan, a good section of that is dedicated to how you get more people downtown.

And so I think the lines ever aligning, if you will, to move towards emphasis on other modes very quickly.

Mayor.

Mayor Leffingwell: I think that's a perfect segue for me to say that I think the success of this plan is going to depend on the ability to offer different options for travel.

Absolutely.

I wanted to ask a question specifically before I imagine there are a lot of things to be said about the downtown plan.

But specifically about item 31 before we lose rob.

Yes.

So you're talking about working with different businesses downtown.

And I guess I'm concerned and want to make sure.

We have a lot of folks that are in the service industry that might be with relatively small companies, restaurants and things like that.

So especially because a lot of those folks are at the lower end of the income spectrum, making cost-efficient commuting choices is especially significant to them.

So I wanted to ask how that will all be integrated into the plan.

Or are you just going after the big multi-hundred people law firms and things like that?

Well, I would tell you my experience from the west coast also on these things is that the belief is there's lots of 100-person firms.

And the reality is, there's not many 100-person firms all in one location.

There are fewer of those THAN THERE ARE THE 50s AND 40s AND 10s AND SO Forth.

I would tell you the policy of the board right now is very formational and we're just starting to talk about that.

They are focused on results based.

The discussion, do you do a general marketing to the general downtown?

Or do you try to target large companies to get results quickly?

Because, of course, reducing a vehicle trip is reducing a vehicle trip, whether it comes from a large company or small one.

But the large companies tend to give you the apparatus, the management apparatus to achieve those goals.

I think there is awareness that programs that we start to roll out will benefit everybody.

So I think there's a keen awareness on the board.

Yes, they may focus on large companies for targeted programs, but to try to make sure there's an aspect that goes out to the general public.

And if that's a concern of this council, then I will most certainly convey that through my representation.

Yeah.

I would appreciate that because I think I certainly see your point that especially for the initiate dollars that are spent, it might be more efficient to spend them to work with a lot of people at once.

But I think at least in our midterm plan for this organization, we should have a plan for how to reach, you know, the folks that are serving in restaurants and things like that.

I'll make a note of that.

And certainly, there have been organizations working through collective organizations whether the austin restaurant association or so forth.

To aggregate the smaller companies into a size large enough that then you do have the management support to achieve some of the goals.

So I will take that to them.

Thank you.

Mayor Leffingwell: Okay.

On item number 36, I plan to pull that off the consent and establish a time certain for a presentation.

It's the ann and roy butler hike and bike trail presentation.

Okay.

I guess I'd like to throw out there, I have heard from several people and I have my own concerns about that item.

I certainly understand and have a lot of respect for the butler family.

The questions that I have are with such a character defining element of our city, that's the town lake

trail, that spans from the east to the west and all those neighborhoods and is used by millions of people a year -- I'm concerned about moving forward with this without some public dialogue about, you know, broader thinking about what would be the right thing to name this.

So I just want to throw that out there.

I have those concerns.

And I understand that this may be connected in some way to funding of the boardwalk.

I had a suggestion of as an alternative naming the boardwalk after ann and roy butler.

I'm sure we'll have plenty of opportunity to hear from other folks at the meeting.

Mayor Leffingwell: Next item.

Mayor.

Mayor Leffingwell: Yeah.

Before we move on that I'm glad you raised that.

Because I would like to talk on thursday about why we are waiving the public process and whether there's a time element of which I'm not aware that would require us to move forward without using our usual naming practices accepted under the code.

Mayor.

Mayor Leffingwell: Mayor pro tem.

I think there were a couple of issues in place with the group of stakeholders that came to me.

One, of course, was private funding being time sensitive to certain things, as you have already mentioned.

And that's always a concern, so that the city doesn't have to pick up all the tabs for all the things that are currently planned there and that might be planned there.

That was one aspect.

And then the second aspect was just that roy and ann butler, and more particularly ann butler, had done a tremendous amount of work along with lady bird johnson on the lake and the planting of the trees and the flowers.

And that was really the group that had done that.

That information was given to me by members of the park foundation.

So it might be helpful to get that.

So it wasn't so much -- it was kind of a balancing act.

We go through the public process and that is, of course, great and it's good that we hear from the public.

And at the same time that we think about recognizing the people that actually made it possible.

If I could, mayor pro tem.

I completely agree.

I have seen some of that information and my staff are compiling more information.

I'm not meaning by any means to discount the value of the butlers and the contributions they have made to the community.

But I do think we have a process for addressing the naming of public facilities including a hike and bike trail.

I'm not clear on what the time pressure is that is pushing us toward waiving the normal public process.

Mayor Leffingwell: Well, there are really two processes.

One is that public process originates in the parks board.

And the other is the process we're using here.

They are both legitimate processes.

Before we go on, I have been meaning to say this all morning.

But council member martinez, his son is ill and he's trying to take care of him.

That's the reason he's not here and won't be here today.

Any other comments on that item?

Or should we go on to another?

Any other items?

That being the case -- oh, okay.

Kathie.

Tovo: Yes.

Number 34, I'm not sure if we have any staff available to answer a question about number 34.

And if not, I'm happy to take it up on thursday.

Mayor Leffingwell: I don't think there's anyone here.

Of course, you always have the option of pulling it off the consent and getting that.

Tovo: Yes.

Mayor Leffingwell: But you can talk about it among us if you prefer.

Tovo: Well, I have some questions and I wanted to sort of talk through the rationale for applying for a 10a permit for the austin blind salamander and just get a sense of the time period and process that we're up against as far as that goes.

It's a quick question.

I think I could probably handle it in the meeting on thursday without disrupting things unnecessarily.

Thanks.

Mayor Leffingwell: Yeah.

I think it's kind of a routine thing that we're doing here.

But I think we'd rather have the experts answer that question specifically.

Laura.

Morrison: I would like to just make a couple of comments on number 77, the downtown austin plan.

Because I know we have had some opportunities to have public input and converse about it already.

I know we have had a sort of multi-month process as these things develop.

And obviously, one of the issues is about whether or not qr stays.

I want to limit the density bonuses to the density bonus program.

One thing I wanted to let you all know that I was going to be making a suggestion about, somewhat related to that on thursday, has to do with the issue of whether commercial property is treated differently from residential property in the downtown bonus density program.

And there have been suggestions that it is treated differently.

It's not -- it's essentially has less of a fee in lieu or zero fee in lieu over the limits and excluded from that.

What I wanted to suggest, we know we're going to have to recalibrate the fees in lieu.

That's something the staff will probably be working on as they develop the downtown density bonus

program.

Rather than saying, oh, commercial property is excluded from that, I would rather say that we build a framework where all types of property are included in setting the fees in lieu.

And it just so happens that right now some of them might be set at zero.

But that would allow us as we move forward, to move them up and down and maybe in the next couple of years, it would make sense, it would make financial sense and wouldn't be an impediment to office development to have a fee in lieu.

So I have asked staff to help me come up with some language to change the approach like that.

Then I also wanted to mention one other thing.

In terms of suggestions that cure for height and density, which I disagree with, one of the suggestions had been that we look at, you know, what barriers are there financially to a project moving forward under the density bonus programs.

And the question I had raised that I think we're still getting answers to, are we allowed to look at financial aspects of a project when we're looking at zoning?

I think we're going to get more of an answer to that.

But what I wanted to add one other concern that I had to that.

And that is the finances of a project would be just that.

Finances of a project.

Whereas we're actually looking and considering zoning.

So if we were to take an approach where we would maybe waive the bonus density because the pro formas don't play out, pro forma is only for a project.

So we would be essentially approving zoning for a project, which sort of takes us into a whole other realm.

So I wanted to just throw that out for people to mull over in their brains in the next two days.

I'm not for that, by the way.

[Laughter]

I just want to understand completely what you're saying because you suggest a concern.

And I just want to make sure I got it.

Are you saying that you think it would be improper to be zoning a project at the same time you are looking at financial pro forma?

Is that what I'm saying?

[Laughter] I can tell you what I'm saying.

And that is, that we had on the issue of does it make sense to keep cure, which i had already said I don't think it does, some reasons that were suggested to support that were, well, they might not be able to build the density under the bonus density program because it would be too expensive essentially.

That backs us up to the question of, are we allowed to consider those financial questions in zoning if we were to keep cure?

And then that backs me.

And if we are going to look at pro forma or finances, we're really looking at finances for a project.

So we would send up in that case zoning for a project.

But zoning goes with the land.

So anyways, I just think it's really puzzling.

I do want to know what some of y'all think, especially you.

If we didn't have cure, but we had different numbers in the density bonus, so that we don't have the financial impediment and we're not talking about the financial impediment.

Wouldn't that be a win-win?

Morrison: So you're saying set the numbers in the density bonus program in such a way that they are not a financial impediment.

Well, I thought that's what we already did.

Cole: Seems like we're having a false argument because it's not working.

Morrison: What do you mean it's not working?

Cole: I'm not giving it.

I guess this is something we can hash out more on thursday.

I wanted to make sure i understood the points totally right now.

It seems like the premise that we are not having the density for the number of development because the density program is too cost prohibitive for the developer.

Then we need to be addressing that issue.

And if we address that, there's no need for cure.

Is that what you're saying?

Morrison: I agree with that.

If we make sure that we set the numbers right in the density bonus program, there's no need for cure.

Cole: So what am i missing, kathie?

Kathy kathie mayor, if i may.

We have in essence allowed there to be a zero dollar option in cure.

The zero is always going to be less than whatever is in the density bonus no matter how we recalibrate those numbers.

In my perspective, as long as we have cure, we're going to have grave difficulties getting folks to the downtown density bonus.

But I'd also I guess back up and say it's my understanding from what i remember and what I have gone back and reviewed about the affordable housing task force that provided the downtown bonus density recommendations, they were a pretty diverse group and they had some back and forth and compromise and looking around the country at what those numbers could be so that they would be a small fraction relative to the increase in value that a developer would get from a rezoning.

I'm getting myself tangled up.

But there would be a small value relative to the increase in value from the rezoning, but still provide some ability to provide a community benefit.

So in other words, you go and get a 310-foot increase in height, which happened over the summer with a cure rezoning, that's a significant increase in financial value for your property.

Returning a fraction of that through the downtown density bonus program is not going to stifle develop, in my opinion.

I think the folks on that interim downtown bonus process and making those recommendations I think came up with a figure that they felt, based on their not just their role as spirits in affordable housing, but we had members of the real estate community, the development community.

That was a negotiated figure.

Now, maybe it's time to go back and look at it again.

But again, whatever we come up with through the downtown density bonus is always going to be more than zero.

Cole: I guess I'm going to ask council member riley or the mayor to help me with the memory of this.

I think it was the \$10 number that was come up with.

And then you still had the cure option.

So then individual projects would come through.

And there would be a presentation why financially they wouldn't work at that.

And then we would have other -- the sequence of events.

But I guess I'm asking either the mayor or council member riley, I know you know a lot about this.

Can you talk about unique projects?

I'm trying to separate projects that you just can't put a cookie-cutter approach on the density bonus so you need to be able to come to council or come to cure or some other process.

And there is maybe 80% to 90% of projects that you can do that.

Do you understand my question?

Mayor Leffingwell: I think what is proposed, what you just talked about, about there being a requirement in the staff proposal as it stands right now, that someone requesting cure would have to have an explanation of why that was not feasible for them to participate in the density bonus program or community benefits program.

That is not the case today as we sit here.

They either just apply for it or they don't.

But that is the new wrinkle as I understand it in the staff proposal for the new cure zoning.

Which I thought was an improvement over the status quo.

Yeah, I think -- and I want to mechanics one more time.

I haven't heard much response to the suggestion i made a while back that one possible alternative might be instead of a developer paid density bonus, that some part of that or all of it, whatever is appropriate be in the form of a tiff so that the community would derive the same benefit, whether affordable housing or something else, which kind of dove tails with what we do with all the city property that we have set aside or sold for private development, whereas part of that tiff actually 40% goes to affordable housing.

And that will be the case just to the west of us here when green is redeveloped.

So that might be an alternative.

It's just something to throw out there.

But I don't know if that's something that council wants to consider or not.

But it is a possibility.

Mayor.

Mayor Leffingwell: Chris.

Riley: I am interested in that possibility.

And I have met at length with staff to talk about options like that.

I think one thing that's important to bear in mind as we talk about cure versus no cure, under any scenario, the density bonus program is not likely to result in a significant continuing and reliable stream of revenue to support affordable housing.

By its nature, a payment out of that density bonus system is likely to be a one-shot deal.

We will get some infusion of money.

And that happens when the economy is good and there is development activity.

As development activity slows down during recession, we would expect to rely on those density bonus payments and expect to see those payments slow down.

And under any scenario, it would be very hard to predict exactly what we were going to get and the timing of those payments.

It would be -- it is a fairly frail reed upon which to support our entire program for affordable housing downtown.

I think it would be -- it's particularly problematic at a time when we are thinking in terms of permanent supportive housing, which requires not just one up-front capital investment for bricks and mortar, but actually requires ongoing revenue stream to support operations maintenance over time.

If the only mechanism we have for supporting affordable housing downtown is the density bonus program, it's going to be hard to look to any revenue coming in to support something like permanent supportive housing.

The benefit of the approach that the mayor suggests is that you actually could have a reliable, steady income stream, such as we currently have from formerly he had city properties that have been sold off.

That's not true, but properties previously not on the tax rolls at all but now are on the tax rolls.

I suppose it's an increment in some sense going from nothing to something.

It's an increment in that sense.

So we take 40% of that and direct it to affordable housing.

And that's, you know, currently in the ballpark of \$200,000, \$300,000 but expected to grow over time.

And that is not a huge sum, but at least it is a steady ongoing reliable and predictable revenue stream.

So I have met with staff to talk about the options.

There are examples in other cities about tiff programs to support affordable housing.

I think it's worth considering whether that sort of approach might work here.

One issue, of course, is to whatever extent you take increments out of the tax base downtown, you undermine our ability to rely on that tax base to support projects like urban rail.

And so we have to think about all the competing priorities downtown.

And it is going to be difficult to balance them.

But I'm hopeful there will be some way of looking to the tax base provided by new projects as a way of providing a funding stream for affordable housing.

Mayor Leffingwell: And that's really an important aspect of it.

I'm glad you mentioned it.

This is over time.

It is not a one-time shot.

Because it would be over time, it doesn't have to be impactful up-front to anybody.

Either to the developer or to the city.

It could be structured out over a period of time like all tiffs are.

30 Years, some fixed number.

I haven't seen some financial analysis.

I'm glad you have started working with the staff on this.

I think that is going to be a big part of it because you actually see the numbers.

How does this concept work out in a real situation.

Mayor.

Mayor Leffingwell: Bill.

Spelman: Help me understand this.

I am used to thinking of tiffs being in districts.

So we have a district at every property in the district would pay under the tiff.

This sounds like it would have to be on a lot by lot basis.

Is that what you guys are thinking about?

There are projects and specific tiffs.

If you google pct specific tiffs --

Mayor Leffingwell: State tiffs?

Riley: The project speffive.

Typically, that tiff would be based on infrastructure investments that would make that project happen.

Generally tiffs are subject to a but for test.

They make infrastructure possible.

You might be challenged in making the but for argument.

It's worth looking at.

I am pleased with staff being willing to look at best practices.

The but for applies to the term tif.

We can use the money for a different purpose but brings up another issue I was thinking of that is consistent with this.

You can give a lump sum payment of a certain amount of money now or you can give us a larger payment over a longer time to support phs or something like that, which would accumulate to a larger net present value from the public's point of view and a lot easier for the developer to bear because it wouldn't have to come all in one lump before they rented the units out, for example.

That sounds like an opportunity for a situation where both sides would be better off.

We don't need tif to do that.

We could make a deal.

We need tom some flexibility in the bonus density program to allow those things to happen as opposed to lump sum payment which has already been called for.

If I could jump in quickly.

Go ahead.

Because we're talking about two different things.

The funds the owner is going to pay through a tif are going to be paid whether or not there's a tif.

Right?

Because a tif is not an extra tax.

A tif is not an extra tax burden.

It's only extra tax due to the increase in property value.

The tif money is coming to the city, no matter what.

So if we were talking about the difference between an up-front lump sum payment versus a payment over time, it's not a tif you're talking about.

You're talking about making a payment over time and finding a mechanism to make a payment over time.

But they would still be paying their property taxes.

It's just the property taxes would -- and this is important to remember.

We go to the general fund to pay for public safety and parks as opposed to affordable housing.

Money the city is going to get either way.

Assuming it gets built.

But it's the same for this property over here and the same principle involved.

But the other thing, the other advantage, besides the fact that it's spread out over time and has an impact over time is the fact that we keep -- we tend to lose sight of the fact that there are more than two options.

In fact, there are three.

So one option would be cure.

One option would be density bonus.

And the third would be no build.

So potentially, a developer -- I mean this is hypothetical.

But one choice been, okay, if I can't get cure zoning, if it's going to cost me and the density bonus, I'll stay within the limitations.

Then there's no benefit.

There's no tax benefit to the city.

There is no community benefit.

There's no funds for affordable housing.

And I think this tif idea would be a factor in not really -- that wouldn't be a factor in whether or not the project were built as planned.

Because it wouldn't be an expense.

It would be incurred by the developer.

It would be an expense incurred by the city, and i think properly so.

It's a city value.

It's a city goal to provide these community benefits and affordable housing.

And I think it's appropriate that's where it would come from.

And it would take away that deterrent or disincentive to actually build these properties and create that value.

Mayor.

Mayor Leffingwell: Bill.

Spelman: My apologies for mixing apples and oranges.

I went to the metaphorical aspect of the tif.

What I understood you guys to say -- and maybe I was speaking out of turn -- is that instead of a lump sum payment of say \$3 million to support as a few in lieu, we could restructure that to alarger payment over a longer period of time.

That's what I was getting at with tif.

You may have been getting at something very different than that.

Mayor Leffingwell: I wasn't trying to argue against your suspect.

That's certainly another good idea.

This idea occurred to me that it also could be a disincentive.

Spelman: Oh, sure.

I guess all I'm getting at --

Mayor Leffingwell: I was not responding to you necessarily.

Spelman: I understand.

I understand.

All I was getting at is there may be a means by which we can get more money for affordable housing or a lot of other things, which are community benefits.

It would be an additional expense to the developer.

But by stretching out the payment, we would end up making it a lot more convenient and do-able from the developer's point of view.

But we would need probably some means in the density bonus program of providing that option for the developer to make that offer or to put that on the table.

I'm not sure what changes would be necessary in the plan to make that possibility available.

But I think that sort of thing, to create some opportunity for flexibility, which we can say yes and we can say no, we don't like that and we're going to hold you to the density bonus program in its current form, but if we have an offer we can consider it.

That sort of thing I think we ought to think about.

I have a technical question.

If there's somebody that can answer it right now, we can save some time on thursday.

Question is -- [laughter] regarding the calibration of the fees in lieu and the other community benefits and wondered if we can give it some thought --

Mayor Leffingwell: Looks like we have some experts here.

Spelman: I thought I saw you walking in.

Before you walked in, we were talking about the calibration of fees in lieu and other community benefits.

And we have got a number on the table right now, but there is some concern that perhaps that number is a little bit obsolete.

Have we given thought as to how we're going to do the recalibration?

How often?

Who's going to do it?

And so on.

Well, even in the downtown plan -- there we go.

Other.

Jim robertson, zoning department.

Even in the downtown plan as it's written and before you right now, we had made a recommendation that a density -- that the community benefit and fee in lieu and so forth associated with the density bonus should be recalibrated at a minimum every five years.

That was already in the thing.

What we were proposing to you now at I believe the august 18th council briefing was that if you direct us, if you direct city staff to move forward with developing the code amendment that is would embody a bonus density program, we would propose that simultaneous to that, we either through in-house expertise or bring outside expertise for recalibration.

Obviously, the numbers that are the economic analysis that supports what was in the plan right now was done in roughly the 2008-2009 period.

Obviously, there have been dramatic economic events nationally and internationally since then that prompted a lot of the concern about the validity of the economic analysis that was done in 2008 and 2009.

In light of that, what we're proposing now is that we do the recalibration simultaneous with bringing forward code amendments.

I think the recommendation in the density bonus proposition would stand, though, that they should be recalibrated at a minimum, you know -- our recommendation was five years.

I think we said at a minimum because when there are extraordinary economic events that occur, that pose a justification for doing it on a more frequent basis, i would hope we would do that, just like right now.

I agree with you.

It's a good final for us to do that.

In talking about recalibration, could you give us in a nutshell what you think is going to be required to do that recalibration.

Essentially, you're looking at it would be the more or less same analysis we did when we came forward with the numbers initially, which was to look at the economics of downtown development and there's not one homogeneous downtown development.

There are different types.

There's ownership residential, rental residential, in the nonresidential categories, the major two things are hotel and office.

And then there's, of course, mixed use which is a combination of those.

What we did and what I think you would want to do again is essentially look at the pro formas for

hypothetical projects which is exactly what we did.

I think we had nine projects.

Several different types of projects located in different areas of downtown at different scales.

And we looked at those.

And what you are looking at is essentially, what does it cost to build the project.

Yeah.

And that includes not only your construction cost, but your cost of money.

The cost of your loan or the return expected by investors versus what sort of revenue the project will deliver once it's completed, either in the form of sales or leases.

And so essentially, you want to produce a fee in lieu or another community benefit.

And this has kind of been our mantra, as you know.

A density bonus program would be a failure if it seeks to extract more from the project than the value gained from the additional density.

Right.

So what you want to do is strike an equitable sort of split, if you will, of that extra value, so that there remains an incentive for the project to go forward at the additional density, but also there's a reasonable exchange of a portion of that value in the form of community benefit.

From your point of view, if one were to structure a deal -- I'm a developer and I've got an idea that would put more money in the pocket of the city over a longer haul, but cost me less right now when I haven't rented the building out yet and don't have any revenues come in.

I am offering a stream of benefits over a 10-year period at a certain level, is that the kind of thing that could be -- I'm not saying being incorporated into your pro forma analysis, but made consistent with the pro forma analysis so we could verify that income stream is in fact consistent with what we could get or better than what we would get with immediate cash?

If I understand your question, I think what you would -- in both cases, in other words, an up-front payment.

Yeah.

Which is how this is structured now.

Essentially in exchange of either monetary value or some other physical community benefit in return for the additional density.

"

if scenario "b" is we find out a way for the project over time to make it to contribute its community benefit, but in either scenario, the community benefit is coming from the project as opposed to coming from the city.

Right.

I think yeah, you could look at that on a pro forma basis.

What that is -- and I don't know how it would work out because you're transferring an up-front cost, like the cost of bricks and mortar to build something to a carrying cost of that project.

In other words, when you do a pro forma, one of the things you'd have to put in the pro forma is over the next "x" years, however long that obligation extends, there's going to be a cost or expense to this project, just like building maintenance or operation is an expense to a project.

And it would go into the pro forma just like any other annualized expense.

Yes, you could look at that.

I'm actually looking at something simpler than that.

This may speak to the way under some circumstances may be beneficial to both sides.

I can imagine where my cost of money is different from your discount rate.

And it's going to be easier for me to give you \$500,000 a year for a six-year period, \$500,000 a year for a 10-year period than \$3 million up-front.

It could be, right.

I can imagine how that would be.

And the economics are really complicated.

And we're going into territory that I will not come even close to declaring myself an expert on.

It may be it has a different effect on the bottom line of the pro forma to compare an up-front \$3 million expense using your example to an annualized cost over a 10-year obligation, whatever it is of less than that.

That may have a lower cost on the project pro forma and may not work under one scenario and not work -- and would work under the second.

Does it make sense to try and apply that kind of thinking on a case-by-case basis?

Or does it make more sense to say \$3 million now versus \$5 million over a 10-year period in equal size increments, we think the city is better off with \$5 million over 10 years, therefore, we will accept your offer?

And if you think it makes better sense from your point of view as a developer to offer it over a 10-year

period rather than lump sum payment, that's your business, not ours.

Mayor Leffingwell: Can i ask one quick question?

In a scenario leak that, would it be necessary for the city to have a lien on the property?

I can't answer that, mayor.

It seems like you would want some security associated with that obligation.

Mayor Leffingwell: Yeah.

I mean what if the thing tanks and they can't rent any of their rooms.

Yeah.

It seems like you would.

Now, going back to yours --

it's pretty hard to respond to that because you're really trying to respond from the developer's perspective and all the costs associated with what they are trying to build.

Intuitively it makes sense of some up-front payment in return for a bonus we would get or some public benefit versus the developer having the opportunity to spread that cost over a period of time, a term might make a difference, you know, in terms of whether or not the deal, the development works.

Hard for you, though, to answer that question.

You're not the developer.

And it depends on the particular circumstances of the development and the numbers, his or her expenses.

Yeah.

Is that right?

I think that's right.

The only thing I would add to what mark just said would be if the case can be made, clearly made and demonstrated that the choice is between the project either, "a," doesn't get built, or it gets built at existing entitlement and you lose the opportunity for that additional density, and if the difference between the project happening with the density and the project not happening at all is the difference between whether we charge up-front or we take payment over an extended period of time, that's a decision I think that you would want to have put before you I would think, so that you could say the public value, you know, in our analysis, the public value lays in getting the density and taking the payment for the community benefit over time.

I think you would want that choice as opposed to that choice not even being there.

It's either it happens or it doesn't happen.

Okay.

So long as we're getting in our opinion, I'll just pick the same number I was using before, \$3 million worth of community benefits, whether stretched out over time or all in a lump is something we can choose for ourselves.

It makes sense for us to choose for ourselves and makes sense for the developer to make the offer of giving it to us over a long period of time or all at once.

We can accept or reject the offer.

I think the answer is yes.

Up might want to set up the program to have a certain -- in other words, the program is relative, the density bonus program is a straightforward.

Maybe it's structured up-front.

If somebody comes in and says, look, this will make a difference, perhaps you would want that choice.

So if somebody made us that offer right now, it's inconsistent with the density bonus program as it's currently constituted, is that right?

Wait.

I'm sorry.

The question is what?

I think the answer is yes, but let me -- [laughter] slow it down.

I didn't understand the question.

It's all right.

I mumbled a little bit.

Jim, if somebody made us that offer, \$5 million equal increments 10-year period, not \$3 million right now, they could make us that offer.

But we would not be in a position under the current program to accept it.

We don't have the flexibility to say that's an interesting idea, we think we're better off that way.

It seems to me -- I mean since the cure is on the books today and cure is the project comes forward and offers certain benefits, that may be something that could be considered even today.

Okay.

So cure would be other current instrument for doing that if we wanted to --

this may be lawyers talk now.

I don't know.

What you are getting at is we could do that now, but the way of doing that now is through cure.

Yes.

If we wanted to find some other perhaps more disciplined means of accepting that offer, we would have to make some changes to the density bonus program.

Yeah.

I mean I guess just as sound policy, I would recommend the latter rather than the former, I suspect.

But whether it could actually happen today in the context of cure is probably a question I shouldn't attempt to answer.

I'll bet I know -- bet I know what the answer is going to be.

I wanted to make a comment.

If we are talking about public benefits, there is something inherently different in affordable housing.

Affordable housing can't be -- you were using the word negotiated.

It's a deal you could take or not take.

We have to remember at its core, affordable housing has to be part of a voluntary program, a program that we have set up beforehand that is predictable.

It couldn't really be sort of an offer and consideration and negotiation.

It has to be something set out in a program, be it density program or if there is a new cure program that needs to be set out there as well.

Well, let me ask you the same question I asked jim.

Sounds like you are going to give me a slightly different answer.

The density bonus program, let us say for a particular program, can require an up-front payment of \$3 million up-front for fee in lieu.

To get additional density you have to give us \$3 million.

The developer says I can give you \$3 million up-front but, boy, it would be easier for me and I'll bet it would be better for you if I give you half a million dollars for 10 years and it will be greater than \$3 million of value to the city, but for a bunch of technical reasons having to do with my fiscal and what I

think is going to happen to my rents and so on, it makes more sense for me to make you that offer.

That statement is that offer.

Again, it would need to be something that we had set out beforehand as something they could take advantage of that was not a back and forth.

Well now, that's exactly what I'm getting at.

I can do \$3 million right now.

I know I can do that.

I'm going to -- I believe we would both be better off with a different idea.

And I'm going to offer that, take it or leave it.

You say to leave it, we're back to \$3 million up-front which I'm not so happy with and I don't think you're happy with either.

But that's the baseline.

We're not negotiating.

All we're doing is accepting or rejecting an arm's length offer.

I have some concerns about that.

I think we need to look at it closely.

But here thrown out, that does raise some concerns for me on our compliance with state law.

But again, it will take more analysis.

That's something we'll have to have a longer conversation off-line about that.

Yeah.

Mayor.

Mayor Leffingwell: Sheryl.

Cole: I remember when we did this in a similar context with second liens where we were dealing with neighborhood housing.

And I know it also brings that up if we wanted to -- that's the aspect of the lien question.

Will we want to ask for s and tie up the property.

I think that aspect has to be looked at.

I also think and I would like you to look at consistent with what council member spelman is saying, is this notion of where we're not making a deal or having to do with any particular project.

We just have three financing options.

Pay all the community benefits up-front, pay the community benefits over five years, pay the community benefits over 10 years.

And that is part of our density bonus program.

And that could be an option in cure.

But definitely, has not been part of our density bonus program which is just a straight-up financing offer that we think might be more appealing to developers that say we just don't have that kind of money up-front, therefore, we're jumping to cure.

I think that's the number one priority.

And second, this is from another spectrum.

But, tim, I heard you talk about your recalibrations.

There were sections of downtown that are more blighted or need development a lot more than others.

In particular, around the arch.

And I don't like that we talk about incentives or we talk about affordable housing and we're always talking about some numbers between zero and as high as 80% and we have a big concentration between zero and 30% downtown and we need for and affordable supportive housing.

And I'm wondering, I don't know if this would be better a part of cure or a part of the density bonus program.

It seems like it would be easier to put in the density bonus program.

It's that if you are actually coming to us and you are going to build permanent supportive housing and these particular locations, guess what, you get a pass.

Because we haven't been able to do it on our own at all and we recognize it as a big problem.

What do you say to that?

Get a pass?

In other words, you can get entitlements beyond your basis entitlements?

We're going to be looking at a different level of benefits.

We're going to be looking at you differently.

You have come to us with something that we need, almost like, you know, coming to us with we're going to fund park maintenance, another problem that we have.

And if you are going to do that, then we're going to consider you differently.

It's like we have all these people coming through the door and we're treating them all the same.

And now we're trying to come up with a policy, but we're not looking at -- we look at the upside of, oh, man that's potential money coming in, but we're not looking at the down side of how do we really need to apply it even for affordable housing.

That there's nuggets within that realm particular to downtown.

And I have heard that other cities do that.

Do you know anything about that?

Let me go way out on a limb and say I think exactly that would be permissible under the staff's proposal for cure.

Cole: Oh, you do?

Cure?

Mayor Leffingwell: My guess is.

Even under the density bonus program, you can achieve substantial amounts of additional density by providing affordable housing.

And this prong you describe be would be providing it in spades.

It would be an affordable housing project.

Cole: So you think just what I described can be done under either program?

Yeah.

Cole: And I guess my question is, then why isn't it happening?

Is it not -- j jao we don't have a plan yet.

Cole: Too expensive?

It's a substantial -- yeah.

It's quite expensive.

I mean the principal recommendation of the downtown plan, I'm sure you are highly aware one of the recommendations of the downtown plan is to create 225 units within I guess a 10-year period downtown

of housing that's affordable to those between zero and 30%.

Mayor Leffingwell: Tim.

Going back to her question, your question is can you do that.

And the answer is I don't think you can now, but you can under the staff proposal where you can negotiate benefits for cure.

I think that's right right.

Mayor Leffingwell: But you can't right now.

I thought I heard robertson say you could do it under the existing downtown dense bit bonus program, especially if your entire project will be affordable housing.

You could get -- I think i heard you say you could get significant increases in entitlements creating affordable housing on that site.

We can do it under the downtown bonus density program.

Mayor Leffingwell: I said not under the existing cure, you couldn't do it.

Tovo: I don't see why not.

Mayor Leffingwell: Isn't that contract zoning if you do that?

Tovo: Well, part of the zoning -- and I'm not sure if I've got it in front of me.

Part of the zoning language in our code says to get a cure rezoning, there ought to be very significant community benefit that just, in my opinion, there haven't been -- the council hasn't held the applicants to a high standard of what those community benefits should be before granting cure.

And I guess I would say i know we're running close on time here, but unless robertson was accurate in - - did you have anything to add on that point?

The only thing I was going to add, it strix me from a practical point of view, someone coming in propose to go build housing affordable in the zero to 40% range is probably not going to be seeking density bonuses because they probably build it under existing entitlements because just the cost associated with higher construction, which might prompt the need for either a height or density relief, it's so expensive.

[One moment please for change in captioners]

Tovo: And I have grave concerns over our discussions about cure about how we will be within state law if we are having discussions about affordable housing within a cure rezoning case and looking at pro formas.

And I know we'll get some additional feedback on thursday at our meeting, but it seems to me the downtown density bonus program could be altered to allow for payments over a period of time.

I think mayor pro tem suggested five years or 10 years up front and that seems to be a workable solution.

And one that I would be supportive of considering.

And I want to say that we have talked about this a lot.

And I made this point a few work sessions ago, but I'll make it again.

When you purchase a piece of downtown property that has 60-foot -- has cs zoning and a 60-foot height limit, you're entitled to build to 60 feet h when you come to council and ask for a 310-foot increase as happened at the 309, 311 and 315 bowie street project this summer, you have a huge value.

I would like us as we're moving forward to the thursday vote to consider the amount of money that we are foregoing for affordable housing when we allow for a rezoning to occur under cure rather than encouraging people to use the downtown density bonus program.

And we have some very concrete examples surrounding city hall right now of people who need affordable housing options and it's an expressed commitment of the city council to provide more housing opportunities at levels that are affordable.

So I appreciate, councilmember riley, your concern for a dedicated stream for affordable housing and I think we need to continue to work toward that kind of an option and to think about what we need are more options, and we need to use -- but we also need to use the tools we have at our disposal and one is the downtown density bonus program.

I hope we find our way to a vote on thursday that will preserve it and make it successful as we continue to look toward other options as well.

And I would also say that as you look at other cities that have downtown density bonus programs, they are -- they continue to develop, they continue to be vibrant economically.

And if w calibrated our program right, there should not be incompatible goals.

We should be able to support a vibrant and dense downtown while also returning some of that value to the community to support a community priority we've identified, which is affordable housing.

Mayor Leffingwell: Laura?

Morrison: I appreciate these comments, councilmember tovo, and i wanted to follow up on a couple of things.

One, I heard mayor pro tem cole ask specifically what would be an example of a situation where we really needed to have cure?

Give us a specific situation.

And I haven't heard an answer to that.

And I think that it's important to sort of struggle through that because that can help us perhaps evolve our ideas for the density bonus program because I'm not at all convinced that we're going to find an example unless you want to start saying that the finances don't work and then we're outside the realm of

what we're allowed to do our zoning for.

And tim, maybe you can help me remember the exact figure, but I believe that the analysis that was done as part of the downtown plan and the economics of it, i believe that's where he saw a figure that said something like benefits and fees in lieu that had been foregone over the past n number of years due to cure amounted to \$22 million.

Do you remember anything like that?

I can find the reference to it.

But we're talking big money and the bottom line is that maybe some of those projects wouldn't have been built and we need to get that on the table if that's what we're looking at.

And I appreciate that.

But we do need to consider, for instance, the bowie street project that was just mentioned.

It was -- they were entitled to 60 feet.

There was envisioned a project at 310 feet more, and the bottom line is that when the planning commission took their position on the tree issue that was being considered, the developers say that would mean that i would have to be developing something with 16 fewer apartments or residential units.

So to know if that can work, I have to go back and renegotiate the value of what I'm willing to pay on the land.

So we need to keep in mind that a piece of land under certain entitlements is going to be worth a certain amount of money.

And we're talking about in large part whether that increase in value, where it goes, to the property owner, to the city and community benefits, and trying to find that proper balance is the job that we have here.

And I think it's important that we do that.

And then the last thing i want to say is to follow up on the idea of rolling out fee in lieu over a certain number of years.

When the mayor had raised the idea of putting a tif on individual properties to capture the increase in property value a couple of work sessions ago.

The parallel idea that I had thrown out was rather than tif the properties so that there would be money that instead of going into the general fund that they would pay anyways, goes into a special fund.

That there is a mechanism that we have that of course the property owner has to agree to to actually layer an additional tax on the property.

And that's a pid.

And we don't generally do one property pid's, but we don't generally do one property tif's either.

's are something that the property owner has to agree to, but if it was clearly laid out in the bonus density program that this is one option that you have to bring forward, and that is to create a pid for your property, to create a stream of payment over a certain amount of time, that's -- I think that's an option that would be very interesting to look at.

And if we were able to do something like that and it were signed on to as a tax, then it's paid as a tax, then we wouldn't get into the issue that the mayor brought up of would we have to put a lien on the property because it's layered as a tax instead.

So I think we have a lot of good things to be looking at, and I'm looking forward to thursday.

And I know you are too, jim.

Cole: Any other comments or questions?

This meeting is adjourned.